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Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives

Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Marshall Islands, Micronesia (Federated States of), Monaco, Montenegro, Netherlands, Norway, Poland, Portugal, Republic of Korea, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

Situation of human rights in the Democratic People's Republic of Korea

The General Assembly,

Reaffirming that all States have an obligation to promote and protect human rights and fundamental freedoms and to fulfil the obligations that they have undertaken under the various international instruments,

Recalling all previous resolutions adopted by the General Assembly, the Commission on Human Rights and the Human Rights Council on the situation of human rights in the Democratic People's Republic of Korea, including Assembly resolution 71/202 of 19 December 2016 and Council resolution 34/24 of 24 March 2017,[1] and mindful of the need for the international community to strengthen its coordinated efforts aimed at achieving the implementation of those resolutions,

Deeply concerned at the grave human rights situation, the pervasive culture of impunity and the lack of accountability for human rights violations in the Democratic People's Republic of Korea,

Stressing the importance of following up on the recommendations contained in the report of the commission of inquiry on human rights in the Democratic People's

* Second reissue for technical reasons (7 November 2017).

[1] See *Official Records of the General Assembly, Seventy-second Session, Supplement No. 53* (A/72/53), chap. IV, sect. A.

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Republic of Korea,[2] and expressing grave concern at the detailed findings contained therein,

Welcoming the decision of the Security Council to add the situation in the Democratic People's Republic of Korea to the list of issues of which the Council is seized and the holding of an open meeting of the Council on 9 December 2016, subsequent to the ones held in 2014 and 2015, during which the situation of human rights in the Democratic People's Republic of Korea was discussed,

Recalling the responsibility of the Democratic People's Republic of Korea to protect its population from crimes against humanity, and recalling also that the commission of inquiry urged the leadership of the Democratic People's Republic of Korea to prevent and suppress crimes against humanity and to ensure that perpetrators are prosecuted and brought to justice,

Taking note of the report of the Special Rapporteur of the Human Rights Council on the situation of human rights in the Democratic People's Republic of Korea,[3] regretting that he still has not been allowed to visit the country and that he has received no cooperation from the authorities of the Democratic People's Republic of Korea, and taking note also of the comprehensive report of the Secretary-General on the situation of human rights in the Democratic People's Republic of Korea submitted in accordance with resolution 71/202,[4]

Mindful that the Democratic People's Republic of Korea is a party to the International Covenant on Civil and Political Rights,[5] the International Covenant on Economic, Social and Cultural Rights,[5] the Convention on the Rights of the Child,[6] the Convention on the Elimination of All Forms of Discrimination against Women,[7] and the Convention on the Rights of Persons with Disabilities,[8] and recalling the concluding observations of the treaty bodies under the five treaties and the importance of giving them consideration,

Recalling the submission, in April 2016, by the Democratic People's Republic of Korea of its combined second, third and fourth periodic reports on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women and of its combined fifth and sixth periodic reports on the implementation of the Convention on the Rights of the Child, and urging full implementation of these Conventions,

Noting the ratification of the Convention on the Rights of Persons with Disabilities by the Democratic People's Republic of Korea, encouraging the Government of the Democratic People's Republic of Korea to expedite the passage and enforcement of implementing legislation, and urging it to fully respect the rights of persons with disabilities,

Noting also the visit of the Special Rapporteur on the rights of persons with disabilities to the Democratic People's Republic of Korea, and looking forward to the cooperation of the Government with the Special Rapporteur in the implementation of its commitments under the Convention on the Rights of Persons with Disabilities, while stressing the importance of extending its cooperation to other United Nations special procedures and human rights mechanisms, including

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[2] A/HRC/25/63.
[3] A/72/394.
[4] A/72/279.
[5] See resolution 2200 A (XXI), annex.
[6] United Nations, *Treaty Series*, vol. 1577, No. 27531.
[7] Ibid., vol. 1249, No. 20378.
[8] Ibid., vol. 2525, No. 44910.

the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, in accordance with their terms of reference,

Acknowledging the participation of the Democratic People's Republic of Korea in the second universal periodic review process, noting the acceptance by the Government of the Democratic People's Republic of Korea of 113 out of the 268 recommendations contained in the outcome of the review[9] and its stated commitment to implement them and look into the possibility of implementing a further 58 recommendations, while expressing its concern that the recommendations have not been implemented so far,

Noting the collaboration established between the Government of the Democratic People's Republic of Korea and the United Nations Children's Fund and the World Health Organization in order to improve the health situation in the country,

Noting also the collaboration established between the Government of the Democratic People's Republic of Korea and the United Nations Children's Fund to improve the nutritional status of children and the quality of children's education,

Noting further the activities undertaken by the United Nations Development Programme, on a modest scale, in the Democratic People's Republic of Korea, and encouraging the engagement of the Government of the Democratic People's Republic of Korea with the international community to ensure that the programmes benefit the persons in need of assistance,

Noting the cooperation between the Government of the Democratic People's Republic of Korea and the World Food Programme, the United Nations Children's Fund and the Food and Agriculture Organization of the United Nations on food security assessments, underscoring the importance of those assessments in analysing changes in the national, household and individual food security and nutritional situation and thereby in supporting donor confidence in the targeting of aid programmes, noting also the letter of understanding signed by the Government and the World Food Programme and the importance of further improvements in operating conditions, bringing access and monitoring arrangements closer to international standards for all United Nations entities, and noting with appreciation the work of international aid operators,

Taking note of the United Nations humanitarian report entitled "Democratic People's Republic of Korea 2017: needs and priorities" and its call to address the critical humanitarian needs in the Democratic People's Republic of Korea,

Taking note also of the strategic framework for cooperation between the United Nations and the Government of the Democratic People's Republic of Korea for the period 2017–2021 and the Government's commitment in accordance with the principles, goals and targets of the Sustainable Development Goals and in line with its commitments to international agreements and conventions,

Noting with concern the findings of the United Nations that well over half of the people in the Democratic People's Republic of Korea suffer from major insecurities in food and medical care, including a very large number of pregnant and lactating women and children under 5 who are at risk of malnutrition, and nearly a quarter of its total population is suffering from chronic malnutrition, condemning the Democratic People's Republic of Korea for diverting its resources into pursuing nuclear weapons and ballistic missiles over the welfare of its people, and emphasizing the necessity for the Democratic People's Republic of Korea to respect and ensure the welfare and inherent dignity of the people in the country, as referred

[9] A/HRC/27/10.

to by the Security Council in its resolutions 2321 (2016) of 30 November 2016, 2371 (2017) of 5 August 2017 and 2375 (2017) of 11 September 2017,

Noting the importance of the issue of international abductions and of the immediate return of all abductees, expressing grave concern at the lack of positive action by the Democratic People's Republic of Korea since the investigations on all the Japanese nationals commenced on the basis of the government-level consultations held between the Democratic People's Republic of Korea and Japan in May 2014, and expecting the resolution of all issues related to the Japanese nationals, in particular the return of all abductees, to be achieved at the earliest possible date,

Welcoming and further encouraging the efforts of Member States to raise international awareness about the human rights situation in the Democratic People's Republic of Korea,

Noting the importance of dialogue for the improvement of the human rights and humanitarian situation in the country,

Underlining the efforts of the Secretary-General to contribute to improving inter-Korean relations and promoting reconciliation and stability on the Korean Peninsula and the well-being of the Korean people,

Noting with concern the suspension of the reunions of separated families across the border since October 2015, and, given that this is an urgent humanitarian concern of the entire Korean people, owing, in particular, to the advanced age of many members of the separated families, hoping that necessary arrangements for resuming reunions, confirming the fate of family members, exchanging letters, visiting their hometowns and holding further reunions on a larger scale and a regular basis will be made by the Democratic People's Republic of Korea, the Republic of Korea and members of the Korean diaspora,

1. *Condemns* the long-standing and ongoing systematic, widespread and gross violations of human rights in the Democratic People's Republic of Korea, including those which the commission of inquiry on human rights in the Democratic People's Republic of Korea, established by the Human Rights Council in its resolution 22/13 of 21 March 2013,[10] has said may amount to crimes against humanity, and the continuing impunity for such violations;

2. *Expresses its very serious concern* at:

(a) The persistence of continuing reports of violations of human rights, including the detailed findings made by the commission of inquiry in its report,[2] such as:

(i) Torture and other cruel, inhuman or degrading treatment or punishment, including inhuman conditions of detention; rape; public executions; extrajudicial and arbitrary detention; the absence of due process and the rule of law, including fair trial guarantees and an independent judiciary; extrajudicial, summary and arbitrary executions; the imposition of the death penalty for political and religious reasons; collective punishments extending up to three generations; and the extensive use of forced labour;

(ii) The existence of an extensive system of political prison camps, where a vast number of persons are deprived of their liberty and subjected to deplorable conditions, including forced labour, and where alarming violations of human rights are perpetrated;

[10] See *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 53* (A/68/53), chap. IV, sect. A.

(iii) The forcible transfer of populations and the limitations imposed on every person who wishes to move freely within the country and travel abroad, including the punishment of those who leave or try to leave the country without permission, or their families, as well as punishment of persons who are returned;

(iv) The situation of refugees and asylum seekers expelled or returned to the Democratic People's Republic of Korea and retaliations against citizens of the Democratic People's Republic of Korea who have been repatriated from abroad, leading to punishments of internment, torture, other cruel, inhuman or degrading treatment, sexual violence or the death penalty, and in this regard strongly urges all States to respect the fundamental principle of non-refoulement, to treat those who seek refuge humanely and to ensure unhindered access to the United Nations High Commissioner for Refugees and his Office, with a view to protecting the human rights of those who seek refuge, and once again urges States parties to comply with their obligations under the 1951 Convention relating to the Status of Refugees[11] and the 1967 Protocol thereto[12] in relation to refugees from the Democratic People's Republic of Korea who are covered by those instruments;

(v) All-pervasive and severe restrictions, both online and offline, on the freedoms of thought, conscience, religion or belief, opinion and expression, peaceful assembly and association, the right to privacy and equal access to information, by such means as the unlawful and arbitrary surveillance, persecution, torture, imprisonment and, in some instances, summary executions of individuals exercising their freedom of opinion and expression, religion or belief, and their families, and the right of everyone to take part in the conduct of public affairs, directly or through freely chosen representatives, of his or her country;

(vi) Violations of economic, social and cultural rights, which have led to food insecurity, severe hunger, malnutrition, widespread health problems and other hardship for the population in the Democratic People's Republic of Korea, in particular for women, children, persons with disabilities, older persons and political prisoners;

(vii) Violations of the human rights and fundamental freedoms of women and girls, in particular the creation of internal conditions that force women and girls to leave the country and make them extremely vulnerable to trafficking in persons for the purpose of prostitution, domestic servitude or forced marriage and the subjection of women and girls to gender-based discrimination, including in the political and social spheres, forced abortions and other forms of sexual and gender-based violence;

(viii) Violations of the human rights and fundamental freedoms of children, in particular the continued lack of access to basic economic, social and cultural rights for many children, and in this regard notes the particularly vulnerable situation faced by, inter alia, returned or repatriated children, street children, children with disabilities, children whose parents are detained, children living in detention or in institutions and children in conflict with the law;

(ix) Violations of the human rights and fundamental freedoms of persons with disabilities, especially violations involving the use of collective camps and coercive measures that target the rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and

[11] United Nations, *Treaty Series*, vol. 189, No. 2545.

[12] Ibid., vol. 606, No. 8791.

allegations of the possible use of persons with disabilities in medical testing, forced relocation to rural areas and separation of children with disabilities from their parents;

(x) Violations of workers' rights, including the right to freedom of association and effective recognition of the right to collective bargaining, the right to strike as defined by the obligations of the Democratic People's Republic of Korea under the International Covenant on Economic, Social and Cultural Rights,[5] and the prohibition of the economic exploitation of children and of any harmful or hazardous work of children as defined by the obligations of the Democratic People's Republic of Korea under the Convention on the Rights of the Child,[6] as well as the exploitation of workers sent abroad from the Democratic People's Republic of Korea to work under conditions that reportedly amount to forced labour, and recalling paragraph 11 of Security Council resolution 2371 (2017) and paragraph 17 of resolution 2375 (2017), in which the Council decided that Member States shall not provide work authorizations for nationals of the Democratic Republic of Korea in their jurisdictions in connection with admission to their territories unless otherwise determined by the relevant sanctions committee on a case-by-case basis;

(xi) Discrimination based on the *songbun* system, which classifies people on the basis of State-assigned social class and birth and also includes consideration of political opinions and religion;

(b) The continued refusal of the Government of the Democratic People's Republic of Korea to extend an invitation to the Special Rapporteur of the Human Rights Council on the situation of human rights in the Democratic People's Republic of Korea or to extend cooperation to the Special Rapporteur and several other United Nations special procedures in accordance with their terms of reference, as well as to other United Nations human rights mechanisms;

(c) The continued lack of acknowledgement by the Government of the Democratic People's Republic of Korea of the grave human rights situation in the country and its consequential lack of action to report on the state of implementation of the recommendations contained in the outcome of its first universal periodic review[13] and to give consideration to the concluding observations of the treaty bodies;

3. *Condemns* the systematic abduction, denial of repatriation and subsequent enforced disappearance of persons, including those from other countries, on a large scale and as a matter of State policy, and in this regard strongly calls upon the Government of the Democratic People's Republic of Korea urgently to resolve these issues of international concern, in a transparent manner, including by ensuring the immediate return of abductees;

4. *Underscores its very serious concern* regarding reports of torture, summary executions, arbitrary detention, abductions and other forms of human rights violations and abuses that the Democratic People's Republic of Korea commits against citizens of other countries within and outside of its territory;

5. *Expresses its very deep concern* at the precarious humanitarian situation in the country, which could rapidly deteriorate owing to limited resilience to natural disasters and to government policies causing limitations in the availability of and access to adequate food, compounded by structural weaknesses in agricultural production resulting in significant shortages of diversified food and the State restrictions on the cultivation of and trade in foodstuffs, as well as the prevalence of

[13] A/HRC/13/13.

chronic and acute malnutrition, particularly among the most vulnerable groups, pregnant and lactating women, children, persons with disabilities, older persons and political prisoners, and urges the Government of the Democratic People's Republic of Korea, in this regard, to take preventive and remedial action, cooperating with international donor agencies and in accordance with international standards for monitoring humanitarian assistance;

6. *Welcomes* the latest reports to the Human Rights Council of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea[14] and the group of independent experts on accountability for human rights violations in the Democratic People's Republic of Korea[15] established pursuant to Council resolution 31/18 of 23 March 2016, [16] including options to seek accountability and secure truth and justice for all victims, and commends the activities undertaken by the Special Rapporteur and the group of independent experts;

7. *Welcomes* the adoption of Human Rights Council resolution 34/24,[1] in which the Council provided for the strengthening of the capacity of the Office of the United Nations High Commissioner for Human Rights, including its field-based structure in Seoul, to allow the implementation of relevant recommendations made by the group of independent experts on accountability, in its report submitted to the Human Rights Council at its thirty-fourth session, aimed at strengthening current monitoring and documentation efforts, establishing a central repository for information and evidence and having experts in legal accountability assess all information and testimonies with a view to developing possible strategies to be used in any future accountability process;

8. *Reiterates its appreciation* for the work of the commission of inquiry, recognizes the continuing importance of its report, and regrets that the commission received no cooperation from the authorities of the Democratic People's Republic of Korea, including with regard to access to the country;

9. *Acknowledges* the commission's finding that the body of testimony gathered and the information received provide reasonable grounds to believe that crimes against humanity have been committed in the Democratic People's Republic of Korea, pursuant to policies established at the highest level of the State for decades and by institutions under the effective control of its leadership;

10. *Expresses its concern* at the failure of the authorities of the Democratic People's Republic of Korea to prosecute those responsible for human rights violations, including violations which the commission of inquiry has said may amount to crimes against humanity, and encourages the international community to cooperate with accountability efforts and to ensure that such crimes do not remain unpunished;

11. *Encourages* the Security Council to continue its consideration of the relevant conclusions and recommendations of the commission of inquiry and take appropriate action to ensure accountability, including through consideration of referral of the situation in the Democratic People's Republic of Korea to the International Criminal Court and consideration of the further development of sanctions in order to target effectively those who appear to be most responsible for human rights violations that the commission has said may constitute crimes against humanity;

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[14] A/HRC/34/66.

[15] A/HRC/34/66/Add.1.

[16] See *Official Records of the General Assembly, Seventy-first Session, Supplement No 53* (A/71/53), chap. IV, sect. A.

12. *Also encourages* the Security Council to continue to discuss the situation in the Democratic People's Republic of Korea, including the country's human rights record, in the light of the serious concerns expressed in the present resolution, and looks forward to its continued and more active engagement on this matter;

13. *Encourages* the continuing endeavours of the Office of the United Nations High Commissioner for Human Rights field-based structure in Seoul, and welcomes its regular reporting to the Human Rights Council;

14. *Calls upon* Member States to undertake to ensure that the field-based structure of the Office of the High Commissioner can function with independence, has sufficient resources and support to fulfil its mandate, enjoys full cooperation with relevant Member States and is not subjected to any reprisals or threats;

15. *Strongly urges* the Government of the Democratic People's Republic of Korea to respect fully all human rights and fundamental freedoms and, in this regard:

(a) To immediately put an end to the systematic, widespread and grave violations of human rights emphasized above, inter alia, by implementing fully the measures set out in the above-mentioned resolutions of the General Assembly, the Commission on Human Rights and the Human Rights Council, and the recommendations addressed to the Democratic People's Republic of Korea by the Council in the context of the universal periodic review and by the commission of inquiry, the United Nations special procedures and treaty bodies;

(b) To immediately close the political prison camps and to release all political prisoners unconditionally and without any delay;

(c) To protect its inhabitants, address the issue of impunity and ensure that those responsible for crimes involving violations of human rights are brought to justice before an independent judiciary;

(d) To tackle the root causes leading to refugee outflows and prosecute those who exploit refugees through migrant smuggling, trafficking in human beings and extortion, while not criminalizing the victims of trafficking and refugees;

(e) To ensure that everyone within the territory of the Democratic People's Republic of Korea enjoys the right to liberty of movement and is free to leave the country, including for the purpose of seeking asylum outside the Democratic People's Repuolic of Korea, without interference by the authorities of the Democratic People's Republic of Korea;

(f) To ensure that citizens of the Democratic People's Republic of Korea who are expelled or returned to the Democratic People's Republic of Korea are able to return in safety and dignity, are treated humanely and are not subjected to any kind of punishment, and to provide information on their status and treatment;

(g) To provide citizens of other countries detained in the Democratic People's Republic of Korea with protections, including freedom of communication with, and access to, consular officers in accordance with the Vienna Convention on Consular Relations,[17] to which the Democratic People's Republic of Korea is a party, and any other necessary arrangements to confirm their status and to communicate with their families;

(h) To extend its full cooperation to the Special Rapporteur, including by granting him full, free and unimpeded access to the Democratic People's Republic of Korea, and to other special procedures of the Human Rights Council as well as to

[17] United Nations, *Treaty Series*, vol. 596, No. 8638.

other United Nations human rights mechanisms so that a full needs assessment of the human rights situation may be made;

(i) To engage in technical cooperation activities in the field of human rights with the United Nations High Commissioner for Human Rights and his Office, as pursued by the High Commissioner in recent years, with a view to improving the situation of human rights in the country;

(j) To implement the accepted recommendations stemming from the universal periodic review and to consider positively those recommendations which are still under consideration, as well as the submission of a midterm implementation report;

(k) To become a member of the International Labour Organization, to enact legislation and adopt practices to comply with international labour standards and to consider ratifying all the relevant conventions, in particular the core labour conventions of the International Labour Organization;

(l) To continue and reinforce its cooperation with United Nations humanitarian agencies;

(m) To ensure full, safe and unhindered access to humanitarian aid, as well as to critical data, and take measures to allow humanitarian agencies to secure the impartial delivery of such aid to all parts of the country, including detention facilities, on the basis of need in accordance with humanitarian principles, as it pledged to do, to ensure access to adequate food and implement more effective food security and nutrition policies, including through sustainable agriculture, sound food production and distribution measures and the allocation of more funds to the food sector, and to ensure adequate monitoring of humanitarian assistance;

(n) To further improve cooperation with the United Nations country team members and development agencies so that they can directly contribute to improving the living conditions of the civilian population, including progress towards the achievement of the Sustainable Development Goals;

(o) To consider ratifying and acceding to the remaining international human rights treaties, which would enable a dialogue with the human rights treaty bodies, to resume reporting to monitoring bodies on treaties to which it is a party, to participate meaningfully in treaty body reviews, and to give consideration to the concluding observations of such bodies in order to improve the human rights situation in the country;

16. *Urges* the Government of the Democratic People's Republic of Korea to implement the recommendations of the commission of inquiry without delay;

17. *Encourages* all Member States, the General Assembly, the Human Rights Council, the Office of the High Commissioner, the United Nations Secretariat, relevant specialized agencies, regional intergovernmental organizations and forums, civil society organizations, foundations and engaged business enterprises and other stakeholders towards which the commission of inquiry has directed recommendations to implement or take forward those recommendations;

18. *Encourages* the United Nations system as a whole to continue to address the grave human rights situation in the Democratic People's Republic of Korea in a coordinated and unified manner;

19. *Encourages* the relevant United Nations programmes, funds, specialized agencies and other related organizations to assist the Government of the Democratic People's Republic of Korea in the implementation of recommendations stemming from the universal periodic review and from the report of the commission of inquiry;

20. *Calls upon* the Democratic People's Republic of Korea to engage constructively with international interlocutors with a view to promoting concrete improvements in the human rights situation on the ground, including through human rights dialogues, official visits to the country that include adequate access to fully assess human rights conditions, cooperation initiatives and more people-to-people contact as a matter of priority;

21. *Decides* to continue its examination of the situation of human rights in the Democratic People's Republic of Korea at its seventy-third session, and to this end requests the Secretary-General to submit a comprehensive report on the situation in the Democratic People's Republic of Korea, and requests the Special Rapporteur to continue to report his findings and recommendations, as well as to report on the follow-up to the implementation of the recommendations of the commission of inquiry.

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Albania, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Iceland, Ireland, Israel, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Micronesia (Federated States of), Monaco, Netherlands, Norway, Poland, Slovenia, Spain, Sweden, Tuvalu, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

Situation of human rights in the Islamic Republic of Iran

The General Assembly,

Guided by the Charter of the United Nations, as well as the Universal Declaration of Human Rights,[1] the International Covenants on Human Rights[2] and other international human rights instruments,

Recalling its previous resolutions on the situation of human rights in the Islamic Republic of Iran, the most recent of which is resolution 71/204 of 19 December 2016,

1. *Takes note* of the report of the Secretary-General of 31 October 2017,[3] submitted pursuant to resolution 71/204, and the report of the Special Rapporteur of the Human Rights Council on the situation of human rights in the Islamic Republic of Iran of 14 August 2017,[4] submitted pursuant to Council resolution 34/23 of 24 March 2017;[5]

2. *Continues to welcome* the pledges made by the President of the Islamic Republic of Iran with regard to some important human rights issues, particularly on eliminating discrimination against women and members of ethnic minorities;

[1] Resolution 217 A (III).
[2] Resolution 2200 A (XXI), annex.
[3] A/72/562.
[4] A/72/322 and A/72/322/Corr.1.
[5] See *Official Records of the General Assembly, Seventy-second Session, Supplement No. 53* (A/72/53), chap. IV, sect. A.

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3. *Acknowledges* proposed or adopted legislative and administrative changes in the Islamic Republic of Iran, including the new Code of Criminal Procedure, the Criminal Procedure Bill in respect of Juveniles and Children, the amendment to the Anti-Narcotics Law regarding penalties for drug-related offences and the Citizens' Rights Charter, which, if properly implemented, would address some human rights concerns;

4. *Welcomes* the engagement of the Islamic Republic of Iran with human rights treaty bodies, including through the submission of periodic reports, and notes in particular the engagement of the Government of the Islamic Republic of Iran with the Committee on the Rights of the Child and the Committee on the Rights of Persons with Disabilities and its participation in the universal periodic review;

5. *Also welcomes* the efforts of the Islamic Republic of Iran to host large numbers of Afghan refugees, granting them access to basic services, in particular access to health care and education for children;

6. *Further welcomes* the ongoing contact with and dialogue between the Islamic Republic of Iran and the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, as well as the invitations extended to other special procedures mandate holders;

7. *Welcomes* the expressed readiness of the Iranian High Council for Human Rights and other Iranian officials to engage in bilateral dialogues on human rights;

8. *Takes note* of the outcome of the presidential and local council elections of May 2017 and of the peaceful electoral process, which saw high voter turnout and which resulted in an increase in the number of women representatives on local councils, while expressing concern about the large number of candidates, including all women presidential candidates, who were disqualified through processes that lacked transparency;

9. *Expresses serious concern* at the alarmingly high frequency of the imposition and carrying-out of the death penalty by the Islamic Republic of Iran, in violation of its international obligations, including the imposition of the death penalty against minors and persons who at the time of their offence were under the age of 18, and executions undertaken for crimes that do not qualify as the most serious crimes, on the basis of forced confessions or against persons who at the time of their offence were under the age of 18, in violation of both the Convention on the Rights of the Child[6] and the International Covenant on Civil and Political Rights,[2] expresses concern at the continuing disregard for internationally recognized safeguards, including executions undertaken without notification to the prisoner's family members or legal counsel, and calls upon the Government of the Islamic Republic of Iran to abolish, in law and in practice, public executions, which are contrary to the 2008 directive seeking to end this practice issued by the former head of the judiciary;

10. *Calls upon* the Islamic Republic of Iran to ensure, in law and in practice, that no one is subjected to torture or other cruel, inhuman or degrading treatment or punishment, which may include sexual violence, and punishments that are grossly disproportionate to the nature of the offence, in conformity with amendments to the Penal Code, the constitutional guarantees of the Islamic Republic of Iran and international obligations;

11. *Urges* the Islamic Republic of Iran to cease the widespread and systematic use of arbitrary detention, including the use of such practices to target

[6] United Nations, *Treaty Series*, vol. 1577, No. 27531.

dual and foreign nationals, and to uphold, in law and in practice, procedural guarantees to ensure fair trial standards, including timely access to legal representation of one's choice from the time of arrest through all stages of trial and all appeals, the right not to be subjected to torture, cruel and inhuman or degrading treatment or punishment and consideration of bail and other reasonable terms for release from custody pending trial;

12. *Calls upon* the Islamic Republic of Iran to address the poor conditions of prisons, to eliminate the denial of access to adequate medical treatment and the consequent risk of death faced by prisoners and to put an end to the continued and sustained house arrest of leading opposition figures from the 2009 presidential elections despite serious concerns about their health, as well as the pressure exerted upon their relatives and dependants, including through arrest, and calls upon the Islamic Republic of Iran to establish credible and independent prison oversight authorities to investigate complaints of abuse;

13. *Also calls upon* the Islamic Republic of Iran, including the judicial and security branches, to create and maintain, in law and in practice, a safe and enabling environment in which an independent, diverse and pluralistic civil society can operate free from hindrance and insecurity, urges the Islamic Republic of Iran to end widespread and serious restrictions, in law and in practice, on the right to freedom of expression, opinion, association and peaceful assembly, both online and offline, including by ending the harassment, intimidation and persecution of political opponents, human rights defenders, women's and minority rights activists, labour leaders, students' rights activists, academics, film-makers, journalists, bloggers, social media users and social media page administrators, media workers, religious leaders, artists, lawyers and persons belonging to recognized and unrecognized religious minorities and their families, and further calls upon the Islamic Republic of Iran to release persons arbitrarily detained for the legitimate exercise of these rights, to consider rescinding unduly harsh sentences, including the death penalty and long-term internal exile, for exercising such fundamental freedoms and to end reprisals against individuals, including for cooperating with the United Nations human rights mechanisms;

14. *Strongly urges* the Islamic Republic of Iran to eliminate, in law and in practice, all forms of discrimination and other human rights violations against women and girls, including with respect to the right to freedom of movement, the right to enjoyment of the highest attainable standard of physical and mental health and the right to work, to take measures to ensure protection for women and girls against violence and their equal protection and access to justice, to address the concerning incidence of child, early and forced marriage, as recommended by the Committee on the Rights of the Child, to promote, support and enable women's participation in leadership and decision-making processes and, while recognizing the high enrolment of women in all levels of education in the Islamic Republic of Iran, to lift restrictions on women's equal access to all aspects of education and women's equal participation in the labour market and in all aspects of economic, cultural, social and political life;

15. *Calls upon* the Islamic Republic of Iran to eliminate, in law and in practice, all forms of discrimination and other human rights violations against persons belonging to religious, ethnic, linguistic or other minorities, including but not limited to Arabs, Azeris, Balochis, Kurds and Turkmen, and their defenders;

16. *Expresses serious concern* about ongoing severe limitations and restrictions on the right to freedom of thought, conscience, religion or belief, restrictions on the establishment of places of worship, attacks against places of worship and burial and other human rights violations, including but not limited to

harassment, intimidation, persecution, arbitrary arrests and detention, denial of access to education and incitement to hatred that leads to violence against persons belonging to recognized and unrecognized religious minorities, including Christians, Jews, Sufi Muslims, Sunni Muslims, Yarsanis, Zoroastrians and members of the Baha'i faith and their defenders in the Islamic Republic of Iran, and calls upon the Government of the Islamic Republic of Iran to release all religious practitioners imprisoned for their membership in or activities on behalf of a recognized or unrecognized minority religious group, including the members of the Baha'i leadership who were declared by the Working Group on Arbitrary Detention of the Human Rights Council to have been arbitrarily detained since 2008, to eliminate, in law and in practice, all forms of discrimination, including economic restrictions, such as the closure or confiscation of businesses and properties, the cancellation of licences and denial of employment in certain public and private sectors, including government or military positions and elected office, and other human rights violations against persons belonging to recognized and unrecognized religious minorities, and to end impunity for those who commit crimes against persons belonging to religious minorities;

17. *Calls upon* the Islamic Republic of Iran to launch a comprehensive accountability process in response to all cases of serious human rights violations, including those involving the Iranian judiciary and security agencies, and calls upon the Government of the Islamic Republic of Iran to end impunity for such violations;

18. *Also calls upon* the Islamic Republic of Iran to implement its obligations under those human rights treaties to which it is already a party, to withdraw any reservations that are imprecise or could be considered incompatible with the object and purpose of the treaty, to consider acting upon the concluding observations concerning the Islamic Republic of Iran adopted by the bodies of the international human rights treaties to which it is a party and to consider ratifying or acceding to the international human rights treaties to which it is not already a party;

19. *Further calls upon* the Islamic Republic of Iran to deepen its engagement with international human rights mechanisms by:

(a) Cooperating fully with the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, including by accepting the repeated requests made by the Special Rapporteur to visit the country in order to carry out the mandate;

(b) Increasing cooperation with other special mechanisms, including by facilitating long-standing requests for access to the country from thematic special procedures mandate holders, whose access to its territory has been restricted or denied, despite the standing invitation issued by the Islamic Republic of Iran, without imposing undue conditions upon those visits;

(c) Implementing all accepted universal periodic review recommendations from its first cycle, in 2010, and its second cycle, in 2014, with the full and genuine participation of independent civil society and other stakeholders in the implementation process, and by engaging constructively in its upcoming third cycle in 2019;

(d) Building upon the engagement of the Islamic Republic of Iran with the universal periodic review process by continuing to explore cooperation on human rights and justice reform with the United Nations, including the Office of the United Nations High Commissioner for Human Rights;

(e) Following through on its commitment to establish an independent national human rights institution, made in the context of both its first and its second

universal periodic reviews by the Human Rights Council, with due regard for the recommendation of the Committee on Economic, Social and Cultural Rights;

20. *Calls upon* the Islamic Republic of Iran to continue to translate the pledges made by the President of the Islamic Republic of Iran with respect to human rights concerns into concrete action that results in demonstrable improvements as soon as possible and to ensure that its national laws are consistent with its obligations under international human rights law and that they are implemented in accordance with its international obligations;

21. *Also calls upon* the Islamic Republic of Iran to address the substantive concerns highlighted in the reports of the Secretary-General and the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, as well as the specific calls to action found in previous resolutions of the General Assembly, and to respect fully its human rights obligations in law and in practice;

22. *Strongly encourages* the relevant thematic special procedures mandate holders to pay particular attention to, with a view to investigating and reporting on, the human rights situation in the Islamic Republic of Iran;

23. *Requests* the Secretary-General to report to the General Assembly at its seventy-third session on the progress made in the implementation of the present resolution, including options and recommendations to improve its implementation, and to submit an interim report to the Human Rights Council at its thirty-seventh session;

24. *Decides* to continue its examination of the situation of human rights in the Islamic Republic of Iran at its seventy-third session under the item entitled "Promotion and protection of human rights".

United Nations A/C.3/72/L.42

General Assembly

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Seventy-second session
Third Committee
Agenda item 72 (c)
Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives

Albania, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Czechia, Denmark, Estonia, Finland, France, Georgia, Germany, Ireland, Latvia, Lithuania, Luxembourg, Malta, Micronesia (Federated States of), Montenegro, Netherlands, Norway, Poland, Portugal, Republic of Moldova, Slovakia, Slovenia, Spain, Sweden, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, and recalling the Universal Declaration of Human Rights,[1] international human rights treaties and other relevant international instruments and declarations,

Recalling the Geneva Conventions of 12 August 1949[2] and Additional Protocol I thereto, of 1977,[3] as applicable, as well as relevant customary international law,

Confirming the primary responsibility of States to promote and protect human rights,

Reaffirming the responsibility of States to respect international law, including the principle that all States shall refrain from the threat or use of force against the territorial integrity or political independence of any State and from acting in any other manner inconsistent with the purposes of the United Nations, recalling its resolution 2625 (XXV) of 24 October 1970, in which it approved the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, and reaffirming the principles contained therein,

[1] Resolution 217 A (III).
[2] United Nations, *Treaty Series*, vol. 75, Nos. 970–973.
[3] Ibid., vol. 1125, No. 17512.

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Recalling its resolution 68/262 of 27 March 2014 on the territorial integrity of Ukraine, in which it affirmed its commitment to the sovereignty, political independence, unity and territorial integrity of Ukraine within its internationally recognized borders, resolution 71/205 of 19 December 2016 on the situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol (Ukraine), and relevant decisions of international organizations, specialized agencies and bodies within the United Nations system,

Condemning the ongoing temporary occupation of part of the territory of Ukraine — the Autonomous Republic of Crimea and the city of Sevastopol (hereinafter "Crimea") — by the Russian Federation, and reaffirming the non-recognition of its annexation,

Supporting Ukraine's commitment to adhere to international law in its efforts to put an end to the Russian occupation of Crimea, and welcoming Ukraine's commitments to protect the human rights and fundamental freedoms of all its citizens,

Reaffirming the obligation of States to ensure that persons belonging to national or ethnic, religious and linguistic minorities may exercise fully and effectively all human rights and fundamental freedoms without any discrimination and in full equality before the law,

Welcoming the reports of the Office of the United Nations High Commissioner for Human Rights on the human rights situation in Ukraine, of the Commissioner for Human Rights of the Council of Europe, and of the human rights assessment mission of the Office for Democratic Institutions and Human Rights and the High Commissioner on National Minorities of the Organization for Security and Cooperation in Europe, in which they stated that violations and abuses of human rights continued to take place in Crimea and pointed to the sharp deterioration of the overall human rights situation,

Welcoming also the report of the Office of the United Nations High Commissioner for Human Rights on the situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol (Ukraine),[4] submitted pursuant to resolution 71/205,

Reaffirming grave concern that the human rights monitoring mission in Ukraine continues to be denied access to Crimea, despite its existing mandate, which covers the entire territory of Ukraine within its internationally recognized borders,

Condemning the imposition and retroactive application of the legal system of the Russian Federation, and its negative impact on the human rights situation in Crimea, the imposition of automatic Russian Federation citizenship on protected persons in Crimea, which is contrary to international humanitarian law, including the Geneva Conventions and customary international law, and the regressive effects on the enjoyment of human rights of those who have rejected that citizenship,

Condemning also the reported serious violations and abuses committed against residents of Crimea, in particular extrajudicial killings, abductions, enforced disappearances, politically motivated prosecutions, discrimination, harassment, intimidation, violence, including sexual violence, arbitrary detentions, torture and ill-treatment, in particular to extract confessions, and psychiatric internment, and their transfer or deportation from Crimea to the Russian Federation, as well as reported abuses of other fundamental freedoms, including the freedoms of expression, religion or belief and association and the right to peaceful assembly,

[4] See A/72/498.

Reaffirming serious concern at the decision of the so-called Supreme Court of Crimea of 26 April 2016 and the decision of the Supreme Court of the Russian Federation of 29 September 2016 to declare the Mejlis of the Crimean Tatar People, the self-governing body of the Crimean Tatars, to be an extremist organization and to ban its activities,

Condemning the increasing pressure exerted upon religious minority communities, including through frequent police raids, threats against and persecution of those belonging to the Ukrainian Orthodox Church of the Kyiv Patriarchate, the Protestant Church, mosques and Muslim religious schools, Greek-Catholics, Roman Catholics and Jehovah's Witnesses, and condemning also the baseless prosecutions of dozens of peaceful Muslims for allegedly belonging to Islamic organizations,

Taking note of the order of the International Court of Justice as of 19 April 2017 on provisional measures in the case concerning the *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of all Forms of Racial Discrimination (Ukraine v. Russian Federation)*,

Recalling the prohibition under the Geneva Conventions of 12 August 1949 for the occupying Power to compel protected persons to serve in its armed or auxiliary forces, including through pressure or propaganda that is aimed at securing voluntary enlistment,

Underlining the importance of the measures to develop transparent, accessible, non-discriminatory and expeditious procedures and regulations governing access to Crimea for human rights defenders, journalists and lawyers, as well as the possibility to appeal, in accordance with national legislation and in conformity with all applicable international law,

Welcoming the support provided by Ukraine to media outlets and civil society organizations that have fled Crimea, which improves the ability of the media and civil society to work independently and without interference,

Welcoming the continued efforts of the Secretary-General, the United Nations High Commissioner for Human Rights, the Organization for Security and Cooperation in Europe, the Council of Europe and other international and regional organizations to support Ukraine in promoting, protecting and ensuring human rights, and expressing further concern over the lack of safe and unfettered access by established regional and international human rights monitoring mechanisms and human rights non-governmental organizations to Crimea,

1. *Condemns* violations, abuses, measures and practices of discrimination against the residents of the temporarily occupied Crimea, including Crimean Tatars, as well as Ukrainians and persons belonging to other ethnic and religious groups, by the Russian occupation authorities;

2. *Also condemns* the unlawful imposition of laws, jurisdiction and administration in the occupied Crimea by the Russian Federation, and demands that the Russian Federation respect obligations under international law with regard to respecting the laws in force in Crimea prior to occupation;

3. *Urges* the Russian Federation:

(a) To uphold all of its obligations under applicable international law as an occupying Power;

(b) To fully and immediately comply with the order of the International Court of Justice of 19 April 2017 on provisional measures in the case concerning

Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of all Forms of Racial Discrimination (Ukraine v. Russian Federation);

(c) To take all measures necessary to bring an immediate end to all violations and abuses against residents of Crimea, in particular reported discriminatory measures and practices, arbitrary detentions, torture and other cruel, inhuman or degrading treatment, and to revoke all discriminatory legislation;

(d) To respect the laws in force in Ukraine and to repeal laws imposed in Crimea by the Russian Federation that allow for forced evictions and the confiscation of private property in Crimea, in violation of applicable international law;

(e) To immediately release Ukrainian citizens who were unlawfully detained and judged without regard for elementary standards of justice, as well as those transferred or deported across internationally recognized borders from Crimea to the Russian Federation;

(f) To address the issue of impunity and ensure that those found to be responsible for violations and abuses are held accountable before an independent judiciary;

(g) To create and maintain a safe and enabling environment for journalists, human rights defenders and defence lawyers to perform their work independently and without undue interference in Crimea;

(h) To restore enjoyment of the rights of all individuals, without any discrimination based on origin and on religion or belief, and to revoke the decisions that banned cultural and religious institutions, NGO's, human rights organizations, media outlets, and to restore enjoyment of the rights of individuals belonging to ethnic communities in Crimea, in particular Ukrainians and Crimean Tatars, including to engage in cultural gatherings;

(i) To ensure the availability of education in the Ukrainian and Crimean Tatar languages;

(j) To revoke immediately the decision declaring the Mejlis of the Crimean Tatar People an extremist organization and banning its activities, repeal the decision banning leaders of the Mejlis from entering Crimea and refrain from maintaining or imposing limitations on the ability of the Crimean Tatar community to conserve its representative institutions;

(k) To end the practice of compelling Crimean residents to serve in the armed or auxiliary forces of the Russian Federation, including through pressure or propaganda;

(l) To cooperate fully and immediately with the Office of the United Nations High Commissioner for Human Rights, the Organization for Security and Cooperation in Europe and the Council of Europe on the situation of human rights in Crimea;

4. *Requests* the Secretary-General to seek ways and means, including through consultations with the United Nations High Commissioner for Human Rights and relevant regional organizations, to ensure safe and unfettered access to Crimea by established regional and international human rights monitoring mechanisms, in particular the human rights monitoring mission in Ukraine, to enable them to carry out their mandate;

5. *Urges* the Russian Federation to ensure the proper and unimpeded access of international human rights monitoring missions and human rights

non-governmental organizations to Crimea, including all places where persons may be deprived of their liberty, recognizing that the international presence in Crimea is of paramount importance in preventing further deterioration of the situation;

6. *Supports* Ukraine's efforts to maintain economic, financial, political, social, informational, cultural and other ties with its citizens in the occupied Crimea in order to facilitate their access to democratic processes, economic opportunities and objective information;

7. *Requests* the Office of the United Nations High Commissioner for Human Rights to prepare by the end of its seventy-second session the second dedicated thematic report on the situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, and to update the Human Rights Council on the issue at its thirty-seventh session, in accordance with the existing mandate and within the existing resources of the human rights monitoring mission in Ukraine, which is currently funded by voluntary contributions;

8. *Requests* the Secretary-General to take all necessary steps to ensure the full and effective coordination of all United Nations bodies with regard to the implementation of the present resolution;

9. *Decides* to continue its consideration of the matter at its seventy-third session under the item entitled "Promotion and protection of human rights".

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General Assembly

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Seventy-second session
Third Committee
Agenda item 72 (b)
Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Colombia and Mexico: draft resolution

Protection of migrants

The General Assembly,

Recalling all its previous resolutions on the protection of migrants, the most recent of which is resolution 70/147 of 17 December 2015, and recalling also Human Rights Council resolutions 35/17 of 22 June 2017 and 35/5 of 28 September 2017,[1]

Reaffirming the Universal Declaration of Human Rights,[2] which proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race,

Reaffirming also that everyone has the right to freedom of movement and residence within the borders of each State and the right to leave any country, including his or her own, and to return to his or her country,

Reaffirming further that everyone has the right to recognition everywhere as a person before the law,

Recalling all relevant international instruments, particularly the International Covenant on Civil and Political Rights[3] and the International Covenant on Economic, Social and Cultural Rights,[3] the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[4] the International Convention for the Protection of All Persons from Enforced Disappearance,[5] the

[1] See *Official Records of the General Assembly, Seventy-second Session, Supplement No. 53* (A/72/53), chap. V, sect. A.
[2] Resolution 217 A (III).
[3] See resolution 2200 A (XXI), annex.
[4] United Nations, *Treaty Series*, vol. 1465, No. 24841.
[5] Ibid., vol. 2716, No. 48088.

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Convention on the Elimination of All Forms of Discrimination against Women,[6] the Convention on the Rights of the Child,[7] the International Convention on the Elimination of All Forms of Racial Discrimination,[8] the Convention on the Rights of Persons with Disabilities,[9] the Vienna Convention on Consular Relations,[10] the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families[11] and the United Nations Convention against Transnational Organized Crime and the Protocols thereto,[12] in particular the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime,[13] and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,[14]

Acknowledging the relevant contribution of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families to the international system for the protection of migrants,

Welcoming the New York Declaration for Refugees and Migrants, adopted on 19 September 2016 at the High-level plenary meeting of the General Assembly on addressing large movements of refugees and migrants,[15] as well as the preparatory process towards the adoption of a global compact for safe, orderly and regular migration, the modalities of which are outlined in its resolution 71/280 of 6 April 2017,

Recalling also the provisions concerning migrants contained in the outcome documents of major United Nations conferences and summits, including the Outcome of the Conference on the World Financial and Economic Crisis and Its Impact on Development[16] and the 2030 Agenda for Sustainable Development,[17]

Recalling further Commission on Population and Development resolutions 2006/2 of 10 May 2006[18] and 2009/1 of 3 April 2009,[19] and its resolution 2013/1 of 26 April 2013 on new trends in migration: demographic aspects,[20]

Taking note of advisory opinion OC-16/99 of 1 October 1999 on the Right to Information on Consular Assistance in the Framework of the Guarantees of the Due Process of Law, advisory opinion OC-18/03 of 17 September 2003 on the Juridical Condition and Rights of Undocumented Migrants, and advisory opinion OC-21/14 of 19 August 2014 on the Rights and Guarantees of Children in the Context of Migration and/or in Need of International Protection, issued by the Inter-American Court of Human Rights,

Taking note also of the Judgment of the International Court of Justice of 31 March 2004 in the case concerning *Avena and Other Mexican Nationals*[21] and the

[6] Ibid., vol. 1249, No. 20378.
[7] Ibid., vol. 1577, No. 27531.
[8] Ibid., vol. 660, No. 9464.
[9] Ibid., vol. 2515, No. 44910.
[10] Ibid., vol. 596, No. 8638.
[11] Ibid., vol. 2220, No. 39481.
[12] Ibid., vols. 2225, 2237, 2241 and 2326, No. 39574.
[13] Ibid., vol. 2241, No. 39574.
[14] Ibid., vol. 2237, No. 39574.
[15] Resolution 71/1.
[16] Resolution 63/303, annex.
[17] Resolution 70/1.
[18] See *Official Records of the Economic and Social Council, 2006, Supplement No. 5* (E/2006/25), chap. I, sect. B.
[19] Ibid., *2009, Supplement No. 5* (E/2009/25), chap. I, sect. B.
[20] Ibid., *2013, Supplement No. 5* (E/2013/25), chap. I, sect. B.

Judgment of the Court of 19 January 2009 regarding the request for interpretation of the *Avena* Judgment,[22] and recalling the obligations of States reaffirmed in both decisions,

Underlining the importance of the Human Rights Council in promoting respect for the protection of the human rights and fundamental freedoms of all, including migrants,

Recognizing that women represent almost half of all international migrants, and in this regard recognizing also that women migrant workers are important contributors to social and economic development in countries of origin and destination, and underlining the value and dignity of their labour, including the labour of domestic workers,

Recalling the adoption of the 2030 Agenda for Sustainable Development in its entirety, and recalling Sustainable Development Goals 8 and 10, including the targets on the protection of labour rights and promotion of safe and secure working environments for all workers, including migrant workers, in particular women migrants and those in precarious employment, and on the facilitation of orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies,

Recognizing the importance of the second High-level Dialogue on International Migration and Development, held on 3 and 4 October 2013, which recognized the important contribution of migration in realizing the Millennium Development Goals and recognized that human mobility is a key factor for sustainable development,

Noting the ninth summit meeting of the Global Forum on Migration and Development chaired by Bangladesh in Dhaka from 10 to 12 December 2016, under the overarching theme "Migration that works for the sustainable development of all: towards a transformative migration agenda", and the tenth summit meeting of the Global Forum, co-chaired by Germany and Morocco in Berlin from 28 to 30 June 2017, under the overarching theme "Towards a global social contract on migration and development",

Acknowledging the cultural and economic contributions made by migrants to their communities of origin and destination and the need to identify appropriate means of maximizing development benefits, to respond to the challenges that migration poses to countries of origin, transit and destination, to promote dignified, humane treatment with applicable protections and access to basic services, and to strengthen mechanisms for international cooperation,

Emphasizing the multidimensional character of international migration, the importance of international, regional and bilateral cooperation and dialogue in this regard, as appropriate, and the need to protect the human rights of all migrants, particularly at a time when migration flows have increased in the globalized economy and take place in a context of continued security concerns,

Acknowledging the complexity of migratory flows and that international migration movements also occur within the same geographical regions, and in this context calling for a better understanding of migration patterns across and within regions,

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[21] See *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 4* (A/59/4), chap. V, sect. A.

[22] Ibid., *Sixty-fourth Session, Supplement No. 4* (A/64/4), chap. V, sect. B.

Deeply concerned at the large and growing number of migrants, especially women and children, including those unaccompanied or separated from their parents, who place themselves in a vulnerable situation by crossing or attempting to cross international borders, and recognizing the obligation of States to respect the human rights of those migrants in accordance with their applicable international human rights obligations,

Recognizing the importance of coordinating international efforts to provide assistance and support to migrants in vulnerable situations and, as appropriate, facilitate their voluntary return to their countries of origin or procedures for determining the need for international protection while respecting the principle of non-refoulement,

Bearing in mind the obligations of States under international law, as applicable, to exercise due diligence to prevent crimes targeting migrants and to investigate and punish perpetrators, and that not doing so violates and impairs or nullifies the enjoyment of the human rights and fundamental freedoms of victims,

Affirming that migrant smuggling and crimes against migrants, including trafficking in persons, continue to pose a serious challenge and require a concerted international assessment and response and genuine multilateral cooperation among countries of origin, transit and destination for their eradication,

Bearing in mind that policies and initiatives on the issue of migration, including those that refer to the orderly management of migration, should promote holistic approaches that take into account the causes and consequences of the phenomenon, as well as full respect for the human rights and fundamental freedoms of migrants,

Stressing the importance of all regulations and laws regarding irregular migration, at all levels of government, being in accordance with the obligations of States under international law, including international human rights law,

Stressing also the obligation of States to protect the human rights of migrants regardless of their migration status, including when implementing their specific migration and border security policies, and expressing its concern at measures which, including in the context of policies aimed at reducing irregular migration, treat irregular migration as a criminal rather than an administrative offence, where the effect of doing so is to deny migrants the full enjoyment of their human rights and fundamental freedoms, and in this regard recalling that sanctions and the treatment given to irregular migrants should be commensurate with their offences,

Aware that, as criminals take advantage of migratory flows and attempt to circumvent restrictive immigration policies and border controls, migrants become more vulnerable to, inter alia, kidnapping, extortion, forced labour, sexual exploitation, physical assault, debt servitude and abandonment,

Recognizing the contributions of young migrants to countries of origin and destination, and in that regard encouraging States to consider the specific circumstances and needs of young migrants,

Recognizing the obligations of countries of origin, transit and destination under international human rights law,

Underlining the importance for States, in cooperation with civil society, including non-governmental organizations, workers' organizations and the private sector, among other relevant stakeholders, to undertake information campaigns aimed at clarifying opportunities, limitations, risks and rights in the event of migration in order to enable everyone to make informed decisions and to prevent anyone from utilizing dangerous means to cross international borders,

1. *Calls upon* States to promote and protect effectively the human rights and fundamental freedoms of all migrants, regardless of their migration status, especially those of women and children, and to address international migration through international, regional or bilateral cooperation and dialogue and a comprehensive and balanced approach, recognizing the roles and responsibilities of countries of origin, transit and destination in promoting and protecting the human rights of all migrants and avoiding approaches that might aggravate their vulnerability;

2. *Expresses its concern* about the impact of financial and economic crises as well as natural disasters and the effects of climate-related phenomena on international migration and migrants, and in that regard urges Governments to combat unfair and discriminatory treatment of migrants, in particular migrant workers and their families;

3. *Reaffirms* the rights set forth in the Universal Declaration of Human Rights[1] and the obligations of States under the International Covenants on Human Rights,[2] and in this regard:

(a) Strongly condemns acts, manifestations and expressions of racism, racial discrimination, xenophobia and related intolerance against migrants and the stereotypes often applied to them, including on the basis of religion or belief, and urges States to apply and, where needed, to reinforce existing laws when hate crimes, xenophobic or intolerant acts, manifestations or expressions against migrants occur, in order to eradicate impunity for those who commit those acts and, where appropriate, to provide effective remedy to the victims;

(b) Encourages States to establish or, when appropriate, strengthen mechanisms which allow migrants to report alleged cases of abuse by relevant authorities and employers without fear of reprisal, and which allow for such complaints to be addressed fairly;

(c) Expresses concern about legislation adopted by some States that results in measures and practices that may restrict the human rights and fundamental freedoms of migrants, and reaffirms that, when exercising their sovereign right to enact and implement migratory and border security measures, States have the duty to comply with their obligations under international law, including international human rights law, in order to ensure full respect for the human rights of migrants;

(d) Calls upon States to ensure that their laws and policies, including in the areas of counter-terrorism and combating transnational organized crime, such as trafficking in persons and smuggling of migrants, fully respect the human rights of migrants;

(e) Calls upon States that have not done so to consider signing and ratifying or acceding to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families[10] as a matter of priority, and requests the Secretary-General to continue his efforts to promote and raise awareness of the Convention;

(f) Takes note of the reports of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on its twenty-third and twenty-fourth sessions,[23] twenty-fifth and twenty-sixth sessions[24] and twenty-seventh session;

[23] Ibid., *Seventy-first Session, Supplement No. 48* (A/71/48).
[24] Ibid., *Seventy-second Session, Supplement No. 48* (A/72/48).

4. *Also reaffirms* the duty of States to effectively promote and protect the human rights and fundamental freedoms of all migrants, especially those of women and children, regardless of their migration status, in conformity with the Universal Declaration of Human Rights and the international instruments to which they are party, and therefore:

(a) Calls upon all States to respect the human rights and inherent dignity of migrants, to put an end to arbitrary arrest and detention and, in order to avoid excessive detention of irregular migrants, to review, where necessary, detention periods and to use alternatives to detention, where appropriate, including measures that have been successfully implemented by some States;

(b) Encourages States to put in place, if they have not yet done so, appropriate systems and procedures in order to ensure that the best interests of the child are a primary consideration in all actions or decisions concerning migrant children, regardless of their migration status, and to use, when applicable, alternatives to the detention of migrant children;

(c) Encourages States to cooperate and to take appropriate measures, in full conformity with their obligations under international human rights law, to prevent, combat and address the smuggling of migrants, including strengthening laws, policies, information-sharing and joint operational functions, enhancing capacities and support opportunities for migration in a well-managed, safe and dignified manner and strengthening legislative methods for criminalizing acts of smuggling migrants, particularly women and children;

(d) Urges all States to adopt effective measures to prevent and punish any form of illegal deprivation of liberty of migrants by individuals or groups;

(e) Requests States to adopt concrete measures to prevent the violation of the human rights of migrants while in transit, including in ports and airports and at borders and migration checkpoints, and to adequately train public officials who work in those facilities and in border areas to treat migrants respectfully and in accordance with their obligations under international human rights law;

(f) Underlines the right of migrants to return to their country of citizenship, and recalls that States must ensure that their returning nationals are duly received;

(g) Calls upon States to analyse and implement, where appropriate, mechanisms for the safe and orderly administration of returning migrants, with particular attention to the human rights of migrants, in accordance with their obligations under international law;

(h) Calls upon States to prosecute, in conformity with applicable law, acts of violation of the human rights of migrants and their families, such as arbitrary detention, torture and violations of the right to life, including extrajudicial executions, during their transit from the country of origin to the country of destination and vice versa, including transit across national borders;

(i) Recognizes the particular vulnerability of migrants in transit situations, including through national borders, and the need to ensure full respect for their human rights also in these circumstances;

(j) Also recognizes the importance of promoting respect for human rights in coordinated efforts of the international community to assist and support migrants who are stranded or in vulnerable situations;

(k) Reaffirms emphatically the duty of States parties to ensure full respect for and observance of the Vienna Convention on Consular Relations,[9] in particular with regard to the right of all foreign nationals, regardless of their migration status,

to communicate with a consular official of the sending State in case of arrest, imprisonment, custody or detention, and the obligation of the receiving State to inform the foreign national without delay of his or her rights under the Convention;

(l) Requests all States, in conformity with national legislation and applicable international legal instruments to which they are party, to enforce labour law effectively, including by addressing violations of such law, with regard to migrant workers' labour relations and working conditions, inter alia, those related to their remuneration and conditions of health, safety at work and the right to freedom of association;

(m) Invites Member States to consider ratifying relevant conventions of the International Labour Organization, including the Domestic Workers Convention, 2011 (No. 189) on decent work for domestic workers;

(n) Encourages all States to remove unlawful obstacles, where they exist, that may prevent the safe, transparent, unrestricted and expeditious transfer of remittances, earnings, assets and pensions of migrants to their country of origin or to any other countries, and, in conformity with applicable laws, regulations and agreements, to consider, as appropriate, measures to resolve any identified issues that may impede such transfers or subject them to impractical restrictions;

(o) Recalls that the Universal Declaration of Human Rights recognizes that everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted to him or her;

5. *Emphasizes* the importance of protecting persons in vulnerable situations, and in this regard:

(a) Expresses its concern about the increase in the activities and profits of transnational and national organized crime entities and others who profit from crimes against migrants, especially migrant women and children, without regard for dangerous and inhumane conditions, and in flagrant violation of national laws and international law and contrary to international standards;

(b) Also expresses its concern about the high level of impunity enjoyed by traffickers and their accomplices as well as other members of organized crime entities and, in this context, the denial of rights and justice to migrants who have suffered from abuse;

(c) Calls upon States, within the framework of applicable international law, to take steps to ensure that their national procedures at international borders include adequate safeguards to protect the dignity, safety and human rights of all migrants;

(d) Welcomes immigration programmes, adopted by some countries, that allow migrants to integrate fully into the host countries, facilitate family reunification and promote a harmonious, tolerant and respectful environment, and encourages States to consider the possibility of adopting these types of programmes;

(e) Calls upon States that have not already done so to provide for the protection of the human rights of women migrant workers, to promote fair labour conditions and to ensure that all women, including care workers, are legally protected against violence and exploitation;

(f) Encourages States to implement gender-sensitive policies and programmes for women migrant workers, to provide safe and legal channels that recognize the skills and education of women migrant workers and, as appropriate, to facilitate their productive employment, decent work and integration into the labour force, including in the fields of education and science and technology;

(g) Encourages all States to develop international migration policies and programmes that include a gender perspective, in order to adopt the measures necessary to better protect women and girls against dangers and abuse during migration;

(h) Calls upon States to protect the human rights of migrant children, given their vulnerability, particularly unaccompanied migrant children, ensuring that the best interests of the child are a primary consideration in their legislation, policies and practices, including on integration, return and family reunification;

(i) Encourages all States to prevent and eliminate discriminatory policies and legislation at all levels of government that deny migrant children access to education and, while taking into account the best interests of the child as a primary consideration, to foster the successful integration of migrant children into the education system and the removal of barriers to their education in host countries and countries of origin;

(j) Reminds all States that all persons, including migrants, should have access to lifelong learning opportunities that help them acquire the knowledge and skills needed to take advantage of opportunities and to participate fully in society;

(k) Urges States to ensure that repatriation mechanisms allow for the identification and special protection of persons in vulnerable situations, including unaccompanied children and persons with disabilities, and take into account, in conformity with their international obligations and commitments, the principle of the best interests of the child, clarity of reception and care arrangements and family reunification;

(l) Urges States parties to the United Nations Convention against Transnational Organized Crime and the Protocols thereto,[11] in particular the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime,[12] and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,[13] to implement them fully, and calls upon States that have not done so to consider ratifying or acceding to them as a matter of priority;

6. *Encourages* States to take into account the conclusions and recommendations of the study of the Office of the United Nations High Commissioner for Human Rights on challenges and best practices in the implementation of the international framework for the protection of the rights of the child in the context of migration[25] when designing and implementing their migration policies;

7. *Also encourages* States to protect migrants from becoming victims of national and transnational organized crime, including kidnapping and trafficking and, in some instances, smuggling, including through the implementation of programmes and policies that prevent victimization and guarantee protection and access to medical, psychosocial and legal assistance, where appropriate;

8. *Encourages* Member States that have not already done so to enact national legislation and to take further effective measures to combat trafficking in persons and smuggling of migrants, recognizing that these crimes may endanger the lives of migrants or subject them to harm, servitude, exploitation, debt bondage, slavery, sexual exploitation or forced labour, and also encourages Member States to strengthen international cooperation to prevent, investigate and combat such

[25] A/HRC/15/29.

trafficking in persons and smuggling of migrants and to identify and disrupt financial flows related to these activities;

9. *Stresses* the importance of international, regional and bilateral cooperation in the protection of the human rights of migrants, and therefore:

(a) Requests all States, international organizations and relevant stakeholders to take into account in their policies and initiatives on migration issues the global character of the migratory phenomenon and to give due consideration to international, regional and bilateral cooperation in this field, including by undertaking dialogues on migration that include countries of origin, transit and destination, as well as civil society, including migrants, with a view to addressing, in a comprehensive manner, inter alia, its causes and consequences and the challenge of undocumented or irregular migration, granting priority to the protection of the human rights of migrants;

(b) Encourages States to promote the effective implementation of the 2030 Agenda for Sustainable Development,[16] including its target 10.7 on the facilitation of orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies;

(c) Also encourages States to take the measures necessary to achieve policy coherence on migration at the national, regional and international levels, including by ensuring coordinated child protection policies and systems across borders that are in full compliance with international human rights law;

(d) Further encourages States to cooperate effectively in protecting witnesses in cases of smuggling of migrants, regardless of their migration status;

(e) Encourages States to cooperate effectively in protecting witnesses and victims in cases of trafficking in persons, regardless of their migration status;

(f) Calls upon the United Nations system and other relevant international organizations and multilateral institutions to enhance their cooperation in the development of methodologies for the collection and processing of statistical data on international migration and the situation of migrants in countries of origin, transit and destination and to assist Member States in their capacity-building efforts in this regard;

(g) Encourages States to include, as appropriate, information on the implementation of their international obligations related to the human rights of migrants in their national reports to the universal periodic review mechanism of the Human Rights Council;

10. *Welcomes* the consideration afforded to the issues of migration, development and human rights in the 2030 Agenda for Sustainable Development;

11. *Reaffirms* the commitments of the New York Declaration for Refugees and Migrants,[15] and urges Member States and the United Nations system to work cooperatively to implement the Declaration;

12. *Encourages* States, relevant international organizations, civil society, including non-governmental organizations, and the private sector to continue and to enhance their dialogue in relevant international meetings with a view to strengthening and making more inclusive public policies aimed at promoting and respecting human rights, including those of migrants;

13. *Requests* Governments and international organizations to take appropriate measures to give due consideration to the declaration of the High-level

Dialogue on International Migration and Development, held on 3 and 4 October 2013;[26]

14. *Recognizes* the importance of the contribution of the United Nations High Commissioner for Human Rights, the Chair of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Special Rapporteur of the Human Rights Council on the human rights of migrants, as well as other key actors, to the discussion on international migration;

15. *Invites* the Chair of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families to present an oral report on the work of the Committee and to engage in an interactive dialogue with the General Assembly at its seventy-third session, under the item entitled "Promotion and protection of human rights", as a way to enhance communication between the Assembly and the Committee;

16. *Invites* the Special Rapporteur on the human rights of migrants to submit his report to the General Assembly and to engage in an interactive dialogue at its seventy-third session, under the item entitled "Promotion and protection of human rights";

17. *Takes note* of the reports of the Secretary-General on the promotion and protection of human rights, including ways and means to promote the human rights of migrants,[27] and on the human rights of migrants,[28] which outlines proposals for the development of the global compact for safe, orderly and regular migration, with a view, in particular, to ensuring that human rights are effectively included and mainstreamed in the global compact;

18. *Requests* the Secretary-General to submit to the General Assembly and the Human Rights Council at their seventy-third and thirty-ninth sessions, respectively, a comprehensive report entitled "Human rights of migrants", covering all aspects of the implementation of the present resolution;

19. *Decides* to remain seized of the matter.

[26] Resolution 68/4.
[27] A/71/284.
[28] A/71/285.

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Third Committee

Agenda item 72 (b)

Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Argentina, Bangladesh, Colombia, Ethiopia, Ghana, Liberia, Mexico and Morocco: revised draft resolution

Protection of migrants

The General Assembly,

Recalling all its previous resolutions on the protection of migrants, the most recent of which is resolution 70/147 of 17 December 2015, and recalling also Human Rights Council resolutions 35/17 of 22 June 2017 and 35/5 of 28 September 2017,[1]

Reaffirming the Universal Declaration of Human Rights,[2] which proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race,

Reaffirming also that everyone has the right to freedom of movement and residence within the borders of each State and the right to leave any country, including his or her own, and to return to his or her country,

Reaffirming further that everyone has the right to recognition everywhere as a person before the law,

Recalling all relevant international instruments, particularly the International Covenant on Civil and Political Rights[3] and the International Covenant on Economic, Social and Cultural Rights,[3] the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[4] the International Convention for the Protection of All Persons from Enforced Disappearance,[5] the Convention on the Elimination of All Forms of Discrimination against Women,[6] the

[1] See *Official Records of the General Assembly, Seventy-second Session, Supplement No. 53* (A/72/53), chap. V, sect. A.

[2] Resolution 217 A (III).

[3] See resolution 2200 A (XXI), annex.

[4] United Nations, *Treaty Series*, vol. 1465, No. 24841.

[5] Ibid., vol. 2716, No. 48088.

[6] Ibid., vol. 1249, No. 20378.

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Convention on the Rights of the Child,[7] the International Convention on the Elimination of All Forms of Racial Discrimination,[8] the Convention on the Rights of Persons with Disabilities,[9] the Vienna Convention on Consular Relations,[10] the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families[11] and the United Nations Convention against Transnational Organized Crime and the Protocols thereto,[12] in particular the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime,[13] and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,[14]

Acknowledging the relevant contribution of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families to the international system for the protection of migrants,

Welcoming the New York Declaration for Refugees and Migrants, adopted on 19 September 2016 at the High-level plenary meeting of the General Assembly on addressing large movements of refugees and migrants,[15]

Acknowledging the preparatory process towards the adoption of a global compact for safe, orderly and regular migration,

Recalling the provisions concerning migrants contained in the outcome documents of major United Nations conferences and summits, including the Outcome of the Conference on the World Financial and Economic Crisis and Its Impact on Development,[16] the 2030 Agenda for Sustainable Development[17] and the New Urban Agenda,[18]

Recalling also Commission on Population and Development resolutions 2006/2 of 10 May 2006[19] and 2009/1 of 3 April 2009,[20] and its resolution 2013/1 of 26 April 2013 on new trends in migration: demographic aspects,[21]

Taking note of advisory opinion OC 16/99 of 1 October 1999 on the Right to Information on Consular Assistance in the Framework of the Guarantees of the Due Process of Law, advisory opinion OC 18/03 of 17 September 2003 on the Juridical Condition and Rights of Undocumented Migrants, and advisory opinion OC 21/14 of 19 August 2014 on the Rights and Guarantees of Children in the Context of Migration and/or in Need of International Protection, issued by the Inter-American Court of Human Rights,

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[7] Ibid., vol. 1577, No. 27531.
[8] Ibid., vol. 660, No. 9464.
[9] Ibid., vol. 2515, No. 44910.
[10] Ibid., vol. 596, No. 8638.
[11] Ibid., vol. 2220, No. 39481.
[12] Ibid., vols. 2225, 2237, 2241 and 2326, No. 39574.
[13] Ibid., vol. 2241, No. 39574.
[14] Ibid., vol. 2237, No. 39574.
[15] Resolution 71/1.
[16] Resolution 63/303, annex.
[17] Resolution 70/1.
[18] Resolution 71/256.
[19] See *Official Records of the Economic and Social Council, 2006, Supplement No. 5* (E/2006/25), chap. I, sect. B.
[20] Ibid., *2009, Supplement No. 5* (E/2009/25), chap. I, sect. B.
[21] Ibid., *2013, Supplement No. 5* (E/2013/25), chap. I, sect. B.

Taking note also of the Judgment of the International Court of Justice of 31 March 2004 in the case concerning *Avena and Other Mexican Nationals*[22] and the Judgment of the Court of 19 January 2009 regarding the request for interpretation of the *Avena* Judgment,[23] and recalling the obligations of States reaffirmed in both decisions,

Underlining the importance of the Human Rights Council in promoting respect for the protection of the human rights and fundamental freedoms of all, including migrants,

Recognizing that women represent almost half of all international migrants, and in this regard recognizing also that women migrant workers are important contributors to social and economic development in countries of origin and destination, and underlining the value and dignity of their labour, including the labour of domestic workers,

Recalling the adoption of the 2030 Agenda for Sustainable Development in its entirety, and recalling Sustainable Development Goals 8 and 10, including the targets on the protection of labour rights and promotion of safe and secure working environments for all workers, including migrant workers, in particular women migrants and those in precarious employment, and on the facilitation of orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies, as noted in the New York Declaration for Refugees and Migrants,

Welcoming the decision to hold the third High-level Dialogue on International Migration and Development in the first half of 2019 and also the decision to hold the High-level Dialogues during every fourth session of the General Assembly, beginning with the seventy-third session, at United Nations Headquarters, to review the follow-up to the outcomes of the previous High-level Dialogues, advance the discussion on the multidimensional aspects of the migration-related Sustainable Development Goals and targets, including migration-related commitments set out in the Addis Ababa Action Agenda of the Third International Conference on Financing for Development,[24] taking into account other migration and development related processes,

Noting the ninth summit meeting of the Global Forum on Migration and Development chaired by Bangladesh in Dhaka from 10 to 12 December 2016, under the overarching theme "Migration that works for the sustainable development of all: towards a transformative migration agenda", and the tenth summit meeting of the Global Forum, co-chaired by Germany and Morocco in Berlin from 28 to 30 June 2017, under the overarching theme "Towards a global social contract on migration and development",

Acknowledging the cultural and economic contributions made by migrants to their communities of origin and destination and the need to identify appropriate means of maximizing development benefits, to respond to the challenges that migration poses to countries of origin, transit and destination, to promote dignified, humane treatment with applicable protections and access to basic services, and to strengthen mechanisms for international cooperation,

Emphasizing the multidimensional character of international migration, the importance of international, regional and bilateral cooperation and dialogue in this regard, as appropriate, and the need to protect the human rights of all migrants,

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[22] See *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 4* (A/59/4), chap. V, sect. A.

[23] Ibid., *Sixty-fourth Session, Supplement No. 4* (A/64/4), chap. V, sect. B.

[24] Resolution 69/313, annex.

particularly at a time when migration flows have increased in the globalized economy and take place in a context of continued security concerns,

Acknowledging the complexity of migratory flows and that international migration movements also occur within the same geographical regions, and in this context calling for a better understanding of migration patterns across and within regions,

Deeply concerned at the large and growing number of migrants, especially women and children, including those unaccompanied or separated from their parents, who place themselves in a vulnerable situation by crossing or attempting to cross international borders, and recognizing the obligation of States to respect the human rights of those migrants in accordance with their applicable international human rights obligations,

Recognizing the importance of coordinating international efforts to provide assistance and support to migrants in vulnerable situations and, as appropriate, facilitate their voluntary return to their countries of origin or procedures for determining the need for international protection while respecting the principle of non-refoulement,

Bearing in mind the obligations of States under international law, as applicable, to exercise due diligence to prevent crimes targeting migrants and to investigate and punish perpetrators, and that not doing so violates and impairs or nullifies the enjoyment of the human rights and fundamental freedoms of victims,

Affirming that migrant smuggling and crimes against migrants, including trafficking in persons, continue to pose a serious challenge and require a concerted international assessment and response and genuine multilateral cooperation among countries of origin, transit and destination for their eradication,

Bearing in mind that policies and initiatives on the issue of migration, including those that refer to the orderly management of migration, should promote holistic approaches that take into account the causes and consequences of the phenomenon, as well as full respect for the human rights and fundamental freedoms of migrants,

Stressing the importance of all regulations and laws regarding irregular migration, at all levels of government, being in accordance with the obligations of States under international law, including international human rights law,

Expressing concern at the increasing trend of xenophobia and hostility towards migrants in societies, which has a negative impact on the fulfilment of human rights globally,

Stressing the obligation of States to protect the human rights of migrants regardless of their migration status, including when implementing their specific migration and border security policies, and expressing its concern at measures which, including in the context of policies aimed at reducing irregular migration, treat irregular migration as a criminal rather than an administrative offence, where the effect of doing so is to deny migrants the full enjoyment of their human rights and fundamental freedoms, and in this regard recalling that sanctions and the treatment given to irregular migrants should be commensurate with their offences,

Aware that, as criminals take advantage of migratory flows and attempt to circumvent restrictive immigration policies and border controls, migrants become more vulnerable to, *inter alia*, kidnapping, extortion, forced labour, sexual exploitation, physical assault, debt servitude and abandonment,

Recognizing the contributions of young migrants to countries of origin and destination, and in that regard encouraging States to consider the specific circumstances and needs of young migrants,

Recognizing also the obligations of countries of origin, transit and destination under international human rights law,

Underlining the importance for States, in cooperation with civil society, including non-governmental organizations, workers' organizations and the private sector, among other relevant stakeholders, to undertake information campaigns aimed at clarifying opportunities, limitations, risks and rights in the event of migration in order to enable everyone to make informed decisions and to prevent anyone from utilizing dangerous means to cross international borders,

1. *Calls upon* States to promote and protect effectively the human rights and fundamental freedoms of all migrants, regardless of their migration status, especially those of women and children, and to address international migration through international, regional or bilateral cooperation and dialogue and a comprehensive and balanced approach, recognizing the roles and responsibilities of countries of origin, transit and destination in promoting and protecting the human rights of all migrants and avoiding approaches that might aggravate their vulnerability;

2. *Expresses its concern* about the impact of financial and economic crises as well as natural disasters and the effects of climate-related phenomena on international migration and migrants, and in that regard urges Governments to combat unfair and discriminatory treatment of migrants, in particular migrant workers and their families;

3. *Reaffirms* the rights set forth in the Universal Declaration of Human Rights[2] and the obligations of States under the International Covenants on Human Rights,[3] and in this regard:

(a) Strongly condemns acts, manifestations and expressions of racism, racial discrimination, xenophobia and related intolerance against migrants and the stereotypes often applied to them, including on the basis of religion or belief, and urges States to apply and, where needed, to reinforce existing laws when hate crimes, xenophobic or intolerant acts, manifestations or expressions against migrants occur, in order to eradicate impunity for those who commit those acts and, where appropriate, to provide effective remedy to the victims;

(b) Encourages States to establish or, when appropriate, strengthen mechanisms which allow migrants to report alleged cases of abuse by relevant authorities and employers without fear of reprisal, and which allow for such complaints to be addressed fairly;

(c) Expresses concern about legislation adopted by some States that results in measures and practices that may restrict the human rights and fundamental freedoms of migrants, and reaffirms that, when exercising their sovereign right to enact and implement migratory and border security measures, States have the duty to comply with their obligations under international law, including international human rights law, in order to ensure full respect for the human rights of migrants;

(d) Calls upon States to ensure that their laws and policies, including in the areas of counter-terrorism and combating transnational organized crime, such as trafficking in persons and smuggling of migrants, fully respect the human rights of migrants;

(e) Calls upon States that have not done so to consider signing and ratifying or acceding to the International Convention on the Protection of the Rights of All

Migrant Workers and Members of Their Families[11] as a matter of priority, and requests the Secretary-General to continue his efforts to promote and raise awareness of the Convention;

(f) Takes note of the reports of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on its twenty-third and twenty-fourth sessions,[25] twenty-fifth and twenty-sixth sessions[26] and twenty-seventh session;

4. *Also reaffirms* the duty of States to effectively promote and protect the human rights and fundamental freedoms of all migrants, especially those of women and children, regardless of their migration status, in conformity with the Universal Declaration of Human Rights and the international instruments to which they are party, and therefore:

(a) Calls upon all States to respect the human rights and inherent dignity of migrants, to put an end to arbitrary arrest and detention, and bearing in mind the New York Declaration for Refugees and Migrants,[15] to review policies that deny migrants the full enjoyment of their human rights and fundamental freedoms, to pursue alternatives to detention while assessments of migration status are under way and to take into account measures that have been successfully implemented by some States;

(b) Encourages States to put in place, if they have not yet done so, appropriate systems and procedures in order to ensure that the best interests of the child are a primary consideration in all actions or decisions concerning migrant children, regardless of their migration status, and, when applicable, to work towards ending the detention of migrant children;

(c) Also encourages States to cooperate and to take appropriate measures, in full conformity with their obligations under international human rights law, to prevent, combat and address the smuggling of migrants, including strengthening laws, policies, information-sharing and joint operational functions, enhancing capacities and support opportunities for migration in a well-managed, safe and dignified manner and strengthening legislative methods for criminalizing acts of smuggling migrants, particularly women and children;

(d) Urges all States to adopt effective measures to prevent and punish any form of illegal deprivation of liberty of migrants by individuals or groups;

(e) Requests States to adopt concrete measures to prevent the violation of the human rights of migrants while in transit, including in ports and airports and at borders and migration checkpoints, and to adequately train public officials who work in those facilities and in border areas to treat migrants respectfully and in accordance with their obligations under international human rights law;

(f) Underlines the right of migrants to return to their country of citizenship, and recalls that States must ensure that their returning nationals are duly received;

(g) Calls upon States to analyse and implement, where appropriate, mechanisms for the safe and orderly administration of returning migrants, with particular attention to the human rights of migrants, in accordance with their obligations under international law;

(h) Also calls upon States to prosecute, in conformity with applicable law, acts of violation of the human rights of migrants and their families, such as arbitrary detention, torture and violations of the right to life, including extrajudicial

[25] Ibid., *Seventy-first Session, Supplement No. 48* (A/71/48).

[26] Ibid., *Seventy-second Session, Supplement No. 48* (A/72/48).

executions, during their transit from the country of origin to the country of destination and vice versa, including transit across national borders;

(i) Recognizes the particular vulnerability of migrants in transit situations, including through national borders, and the need to ensure full respect for their human rights also in these circumstances;

(j) Also recognizes the importance of promoting respect for human rights in coordinated efforts of the international community to assist and support migrants who are stranded or in vulnerable situations;

(k) Reaffirms emphatically the duty of States parties to ensure full respect for and observance of the Vienna Convention on Consular Relations,[10] in particular with regard to the right of all foreign nationals, regardless of their migration status, to communicate with a consular official of the sending State in case of arrest, imprisonment, custody or detention, and the obligation of the receiving State to inform the foreign national without delay of his or her rights under the Convention;

(l) Requests all States, in conformity with national legislation and applicable international legal instruments to which they are party, to enforce labour law effectively, including by addressing violations of such law, with regard to migrant workers' labour relations and working conditions, inter alia, those related to their remuneration and conditions of health, safety at work and the right to freedom of association;

(m) Invites Member States to consider ratifying relevant conventions of the International Labour Organization, including the Domestic Workers Convention, 2011 (No. 189) on decent work for domestic workers;

(n) Encourages all States to remove unlawful obstacles, where they exist, that may prevent the safe, transparent, unrestricted and expeditious transfer of remittances, earnings, assets and pensions of migrants to their country of origin or to any other countries, and, in conformity with applicable laws, regulations and agreements, to consider, as appropriate, measures to resolve any identified issues that may impede such transfers or subject them to impractical restrictions;

(o) Recalls that the Universal Declaration of Human Rights recognizes that everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted to him or her;

5. *Emphasizes* the importance of protecting persons in vulnerable situations, and in this regard:

(a) Expresses its concern about the increase in the activities and profits of transnational and national organized crime entities and others who profit from crimes against migrants, especially migrant women and children, without regard for dangerous and inhumane conditions, and in flagrant violation of national laws and international law and contrary to international standards;

(b) Also expresses its concern about the high level of impunity enjoyed by traffickers and their accomplices as well as other members of organized crime entities and, in this context, the denial of rights and justice to migrants who have suffered from abuse;

(c) Calls upon States, within the framework of applicable international law, to take steps to ensure that their national procedures at international borders include adequate safeguards to protect the dignity, safety and human rights of all migrants;

(d) Welcomes immigration programmes, adopted by some countries, that allow migrants to integrate fully into the host countries, facilitate family

reunification and promote a harmonious, tolerant and respectful environment, and encourages States to consider the possibility of adopting these types of programmes;

(e) Calls upon States that have not already done so to provide for the protection of the human rights of women migrant workers, to promote fair labour conditions and to ensure that all women, including care workers, are legally protected against violence and exploitation;

(f) Encourages States to implement gender-sensitive policies and programmes for women migrant workers, to provide safe and legal channels that recognize the skills and education of women migrant workers and, as appropriate, to facilitate their productive employment, decent work and integration into the labour force, including in the fields of education and science and technology;

(g) Encourages all States to develop international migration policies and programmes that include a gender perspective, in order to adopt the measures necessary to better protect women and girls against dangers and abuse during migration;

(h) Calls upon States to protect the human rights of migrant children, given their vulnerability, particularly unaccompanied migrant children, ensuring that the best interests of the child are a primary consideration in their legislation, policies and practices, including on integration, return and family reunification;

(i) Encourages all States to prevent and eliminate discriminatory policies and legislation at all levels of government that deny migrant children access to education and, while taking into account the best interests of the child as a primary consideration, to foster the successful integration of migrant children into the education system and the removal of barriers to their education in host countries and countries of origin;

(j) Reminds all States that all persons, including migrants, should have access to lifelong learning opportunities that help them acquire the knowledge and skills needed to take advantage of opportunities and to participate fully in society;

(k) Urges States to ensure that repatriation mechanisms allow for the identification and special protection of persons in vulnerable situations, including unaccompanied children and persons with disabilities, and take into account, in conformity with their international obligations and commitments, the principle of the best interests of the child, clarity of reception and care arrangements and family reunification;

(l) Urges States parties to the United Nations Convention against Transnational Organized Crime and the Protocols thereto,[12] in particular the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime,[13] and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,[14] to implement them fully, and calls upon States that have not done so to consider ratifying or acceding to them as a matter of priority;

6. *Encourages* States to take into account the conclusions and recommendations of the study of the Office of the United Nations High Commissioner for Human Rights on challenges and best practices in the implementation of the international framework for the protection of the rights of the child in the context of migration[27] when designing and implementing their migration policies;

[27] A/HRC/15/29

7. *Also encourages* States to protect migrants from becoming victims of national and transnational organized crime, including kidnapping and trafficking and, in some instances, smuggling, including through the implementation of programmes and policies that prevent victimization and guarantee protection and access to medical, psychosocial and legal assistance, where appropriate;

8. *Encourages* Member States that have not already done so to enact national legislation and to take further effective measures to combat trafficking in persons and smuggling of migrants, recognizing that these crimes may endanger the lives of migrants or subject them to harm, servitude, exploitation, debt bondage, slavery, sexual exploitation or forced labour, and also encourages Member States to strengthen international cooperation to prevent, investigate and combat such trafficking in persons and smuggling of migrants and to identify and disrupt financial flows related to these activities;

9. *Stresses* the importance of international, regional and bilateral cooperation in the protection of the human rights of migrants, and therefore:

(a) Requests all States, international organizations and relevant stakeholders to take into account in their policies and initiatives on migration issues the global character of the migratory phenomenon and to give due consideration to international, regional and bilateral cooperation in this field, including by undertaking dialogues on migration that include countries of origin, transit and destination, as well as civil society, including migrants, with a view to addressing, in a comprehensive manner, inter alia, its causes and consequences and the challenge of undocumented or irregular migration, granting priority to the protection of the human rights of migrants;

(b) Encourages States to promote the effective implementation of the 2030 Agenda for Sustainable Development,[17] including its target 10.7 on the facilitation of orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies;

(c) Also encourages States to take the measures necessary to achieve policy coherence on migration at the national, regional and international levels, including by ensuring coordinated child protection policies and systems across borders that are in full compliance with international human rights law;

(d) Further encourages States to cooperate effectively in protecting witnesses in cases of smuggling of migrants, regardless of their migration status;

(e) Encourages States to cooperate effectively in protecting witnesses and victims in cases of trafficking in persons, regardless of their migration status;

(f) Calls upon the United Nations system and other relevant international organizations and multilateral institutions to enhance their cooperation in the development of methodologies for the collection and processing of statistical data on international migration and the situation of migrants in countries of origin, transit and destination and to assist Member States in their capacity-building efforts in this regard;

(g) Encourages States to include, as appropriate, information on the implementation of their international obligations related to the human rights of migrants in their national reports to the universal periodic review mechanism of the Human Rights Council;

10. *Welcomes* the consideration afforded to the issues of migration, development and human rights in the 2030 Agenda for Sustainable Development;

11. *Reaffirms* the commitments of the New York Declaration for Refugees and Migrants, and urges Member States and the United Nations system to work cooperatively to follow up on and apply the Declaration, in accordance with national legal systems;

12. *Encourages* States, relevant international organizations, civil society, including non-governmental organizations, and the private sector to continue and to enhance their dialogue in relevant international meetings with a view to strengthening and making more inclusive public policies aimed at promoting and respecting human rights, including those of migrants;

13. *Requests* Governments and international organizations to take appropriate measures to give due consideration to the declaration of the High-level Dialogue on International Migration and Development, held on 3 and 4 October 2013;[28]

14. *Recognizes* the importance of the contribution of the United Nations High Commissioner for Human Rights, the Chair of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Special Rapporteur of the Human Rights Council on the human rights of migrants, as well as other key actors, to the discussion on international migration;

15. *Invites* the Chair of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families to present an oral report on the work of the Committee and to engage in an interactive dialogue with the General Assembly at its seventy-third session, under the item entitled "Promotion and protection of human rights", as a way to enhance communication between the Assembly and the Committee;

16. *Invites* the Special Rapporteur on the human rights of migrants to submit his report to the General Assembly and to engage in an interactive dialogue at its seventy-third session, under the item entitled "Promotion and protection of human rights";

17. *Takes note* of the reports of the Secretary-General on the promotion and protection of human rights, including ways and means to promote the human rights of migrants,[29] and on the human rights of migrants;[30]

18. *Also takes note* of the report on follow-up to and review of the commitments of the New York Declaration;[31]

19. *Requests* the Secretary-General to submit to the General Assembly and the Human Rights Council at their seventy-fourth and thirty-ninth sessions, respectively, a comprehensive report entitled "Human rights of migrants", covering all aspects of the implementation of the present resolution;

20. *Decides* to remain seized of the matter.

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[28] Resolution 68/4.
[29] A/71/284.
[30] A/71/285 and A/72/173.
[31] A/71/978.

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Agenda item 72 (b)
Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Argentina, Japan, Liechtenstein and Mexico: draft resolution

Protection of human rights and fundamental freedoms while countering terrorism

The General Assembly,

Reaffirming the purposes and principles of the Charter of the United Nations,

Reaffirming also the Universal Declaration of Human Rights,[1]

Reaffirming further the Vienna Declaration and Programme of Action,[2]

Reaffirming the fundamental importance, including in response to terrorism and the fear of terrorism, of respecting all human rights and fundamental freedoms and the rule of law,

Reaffirming also that States are under the obligation to protect all human rights and fundamental freedoms of all persons,

Reaffirming further that terrorism cannot and should not be associated with any religion, nationality, civilization or ethnic group,

Deeply deploring the occurrence of violations of human rights and fundamental freedoms in the context of the fight against terrorism, as well as violations of international refugee and humanitarian law,

Stressing that a criminal justice system based on respect for human rights and the rule of law, including due process and fair trial guarantees, is one of the best means for effectively countering terrorism and ensuring accountability,

Recognizing that respect for all human rights, respect for democracy and respect for the rule of law are interrelated and mutually reinforcing,

[1] Resolution 217 A (III).
[2] A/CONF.157/24 (Part I), chap. III.

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Recalling its resolution 70/148 of 17 December 2015, Human Rights Council resolutions 33/21 of 30 September 2016[3] and 35/34 of 23 June 2017,[4] as well as other relevant resolutions and decisions, and welcoming the efforts of all relevant stakeholders to implement those resolutions,

Recalling also its resolution 70/291 of 1 July 2016 on the review of the United Nations Global Counter-Terrorism Strategy,[5] in which it called upon Member States and the United Nations entities involved in supporting counter-terrorism efforts to respect and continue to facilitate the promotion and protection of human rights and fundamental freedoms, as well as due process and the rule of law, while countering terrorism, recognizing that effective counter-terrorism measures and the protection of human rights are not conflicting goals but are complementary and mutually reinforcing, and stressing the need to promote and protect the rights of victims of terrorism,

Recalling further Human Rights Council resolution 31/3 of 23 March 2016,[6] by which the Council decided to extend the mandate of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism,

1. *Reaffirms* that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law;

2. *Deeply deplores* the suffering caused by terrorism to the victims and their families, expresses its profound solidarity with them, and stresses the importance of providing them with assistance and other appropriate measures to protect, respect and promote their human rights;

3. *Expresses serious concern* at the occurrence of violations of human rights and fundamental freedoms, as well as violations of international refugee and international humanitarian law, committed in the context of countering terrorism;

4. *Reaffirms* the obligation of States, in accordance with article 4 of the International Covenant on Civil and Political Rights,[7] to respect certain rights as non-derogable under any circumstances, recalls, in regard to all other Covenant rights, that any measures derogating from the provisions of the Covenant must be in accordance with that article in all cases, underlines the exceptional and temporary nature of any such derogations,[8] and in this regard calls upon States to raise awareness about the importance of these obligations among national authorities involved in combating terrorism;

5. *Urges* States, while countering terrorism:

(a) To fully comply with their obligations under international law, in particular international human rights, refugee and humanitarian law, with regard to the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment;

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[3] See *Official Records of the General Assembly, Seventy-first Session, Supplement No. 53A* and corrigendum (A/71/53/Add.1 and A/71/53/Add.1/Corr.1), chap. II.

[4] Ibid., *Seventy-second Session, Supplement No. 53* (A/72/53), chap. V, sect. A.

[5] Resolution 60/288.

[6] See *Official Records of the General Assembly, Seventy-first Session, Supplement No. 53* (A/71/53), chap. IV, sect. A.

[7] See resolution 2200 A (XXI), annex.

[8] See, for example, general comment No. 29 on states of emergency adopted by the Human Rights Committee on 24 July 2001 (*Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 40* (A/56/40), vol. I, annex VI).

(b) To take into full consideration the human rights of all, including persons belonging to national or ethnic, religious and linguistic minorities, and that measures taken to counter terrorism must not be discriminatory on grounds such as race, colour, sex, language, religion or social origin;

(c) To take all steps necessary to ensure that persons deprived of liberty, regardless of the place of arrest or detention, benefit from the guarantees to which they are entitled under international law, including the review of the detention and other fundamental judicial guarantees, such as ensuring that they are not left outside the protection of the law and that they are promptly brought before a judicial authority entitled to try them, within a reasonable time, or release them;

(d) To respect the right of persons to equality before the law, courts and tribunals and to a fair trial as provided for in international law, including international human rights law, such as the International Covenant on Civil and Political Rights, and international humanitarian and refugee law;

(e) To safeguard the work of civil society by ensuring that counter-terrorism laws and measures are consistent with and are applied in a manner that fully respects human rights, particularly the rights to freedom of expression, peaceful assembly and association;

(f) To safeguard the right to privacy in accordance with international law, in particular international human rights law, and to take measures to ensure that interferences with or restrictions on that right are not arbitrary, are adequately regulated by law, which must be publicly accessible, clear, precise, comprehensive and non-discriminatory, and are subject to effective oversight and appropriate redress, including through judicial review or other means;

(g) To review their procedures, practices and legislation regarding the surveillance and interception of communications and the collection of personal data, including mass surveillance, interception and collection, with a view to upholding the right to privacy by ensuring the full and effective implementation of all their obligations under international human rights law;

(h) To protect all human rights, including economic, social and cultural rights, bearing in mind that certain counter-terrorism measures may have an impact on the enjoyment of these rights;

(i) To ensure that guidelines and practices in all border control operations and other pre-entry mechanisms are clear and fully respect their obligations under international law, particularly international refugee and human rights law, towards persons seeking international protection;

(j) To fully respect non-refoulement obligations under international refugee and human rights law, which include to refrain from returning persons in cases where there are substantial grounds for believing that they would be in danger of subjection to torture, or where their lives or freedom would be threatened, and, at the same time, to review, with full respect for these obligations and other legal safeguards, the validity of a refugee status decision in an individual case if credible and relevant evidence comes to light that indicates that the person in question has committed any criminal acts, including terrorist acts, falling under the exclusion clauses under international refugee law;

(k) To ensure that their laws criminalizing acts of terrorism are accessible, formulated with precision, non-discriminatory, non-retroactive and in accordance with international law, including human rights law;

(l) Not to resort to profiling based on stereotypes founded on grounds of discrimination prohibited by international law, including on racial, ethnic and/or religious grounds;

(m) To ensure that the interrogation methods used against terrorism suspects are consistent with their international obligations and are reviewed on a regular basis;

(n) To ensure that any person who alleges that his or her human rights or fundamental freedoms have been violated has access to a fair procedure for seeking full, effective and enforceable remedy within a reasonable time and that where such violations have been established, victims receive adequate, effective and prompt reparation;

(o) To ensure due process guarantees, consistent with all relevant provisions of the Universal Declaration of Human Rights,[1] and their obligations under the International Covenant on Civil and Political Rights, the Geneva Conventions of 1949[9] and the Additional Protocols thereto of 1977,[10] and the 1951 Convention relating to the Status of Refugees[11] and the 1967 Protocol thereto[12] in their respective fields of applicability;

(p) To ensure that gender equality and non-discrimination are taken into account when shaping, reviewing and implementing all strategies to counter terrorism and violent extremism conducive to terrorism, and to promote the full and effective participation of women in those processes;

(q) To ensure that any measures taken or means employed to counter terrorism, including the use of remotely piloted aircraft, comply with their obligations under international law, including the Charter of the United Nations, human rights law and international humanitarian law, in particular the principles of distinction and proportionality;

(r) To take into account relevant United Nations resolutions and decisions on human rights, and to give due consideration to the recommendations of the special procedures and mechanisms of the Human Rights Council and to the relevant comments and views of United Nations human rights treaty bodies;

(s) To undertake prompt, independent and impartial fact-finding inquiries whenever there are plausible indications of possible breaches of their obligations under international human rights law, with a view to ensuring accountability;

6. *Also urges* States, while undertaking counter-terrorism activities, to respect their international obligations regarding humanitarian actors and to recognize the key role played by humanitarian organizations in areas where terrorist groups are active;

7. *Condemns* the recruitment and use of children, both in acts of terror and in the measures taken to counter terrorism, and calls upon States to end and prevent such recruitment and use, and take special measures to protect children pursuant to international human rights law and international humanitarian law;

8. *Recognizes* the importance of the International Convention for the Protection of All Persons from Enforced Disappearance,[13] the implementation of which will make a significant contribution in support of the rule of law in

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[9] United Nations, *Treaty Series*, vol. 75, Nos. 970–973.
[10] Ibid., vol. 1125, Nos. 17512 and 17513.
[11] Ibid., vol. 189, No. 2545.
[12] Ibid., vol. 606, No. 8791.
[13] Ibid., vol. 2716, No. 48088.

countering terrorism, including by prohibiting places of secret detention, and encourages all States that have not yet done so to consider signing, ratifying or acceding to the Convention;

9. *Urges* all States that have not yet done so to sign, ratify, accede to or implement the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[14] and encourages States to consider ratifying as a matter of priority the Optional Protocol thereto,[15] the implementation of which will make a significant contribution in support of the rule of law in countering terrorism;

10. *Recognizes* the important role of education, respect for cultural diversity, preventing and combating discrimination, and employment and inclusion in helping to prevent terrorism and violent extremism conducive to terrorism, and welcomes the engagement of relevant United Nations agencies with Member States to implement strategies to prevent violent extremism conducive to terrorism through education;

11. *Calls upon* the United Nations entities involved in supporting counter-terrorism efforts to respect and continue to facilitate the promotion and protection of human rights and fundamental freedoms, as well as due process and the rule of law, while countering terrorism;

12. *Encourages* the Office of Counter-Terrorism to enhance coordination and coherence across the entities of the Counter-Terrorism Implementation Task Force in supporting the efforts of Member States to ensure that their counter-terrorism measures are rooted in respect for their obligations under international human rights law and international refugee and humanitarian law;

13. *Urges* States, while ensuring full compliance with their international obligations, to ensure the rule of law and to include adequate human rights guarantees in their national procedures for the listing of individuals and entities with a view to combating terrorism;

14. *Requests* the Special Rapporteur of the Human Rights Council on the promotion and protection of human rights and fundamental freedoms while countering terrorism to continue to make recommendations, in the context of his mandate, with regard to preventing, combating and redressing violations of human rights and fundamental freedoms in the context of countering terrorism, and to continue to report and engage in interactive dialogues on an annual basis with the General Assembly and the Human Rights Council in accordance with their programmes of work;

15. *Welcomes* the work of the United Nations High Commissioner for Human Rights to implement the mandate given to him by the General Assembly in its resolution 60/158 of 16 December 2005, and requests him to continue his efforts in this regard;

16. *Takes note with appreciation* of the report of the Secretary-General on protecting human rights and fundamental freedoms while countering terrorism;[16]

17. *Also takes note with appreciation* of the report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, which addresses, inter alia, human rights in the context of preventing and countering violent extremism;[17]

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[14] Ibid., vol. 1465, No. 24841.
[15] Ibid., vol. 2375, No. 24841.
[16] A/72/316.
[17] A/HRC/34/61.

18. *Requests* the Office of the United Nations High Commissioner for Human Rights and the Special Rapporteur to continue to contribute to the work of the Counter-Terrorism Implementation Task Force;

19. *Encourages* the Security Council and the Counter-Terrorism Committee to strengthen the links, cooperation and dialogue with relevant human rights bodies, giving due regard to the promotion and protection of human rights and the rule of law in their ongoing work relating to counter-terrorism;

20. *Calls upon* States and other relevant actors, as appropriate, to continue to implement the United Nations Global Counter-Terrorism Strategy,[5] which, inter alia, reaffirms respect for human rights for all and the rule of law as the fundamental basis of the fight against terrorism;

21. *Requests* the Office of Counter-Terrorism to expand its efforts to ensure that the United Nations can better coordinate and enhance its support to Member States in their efforts to comply with their obligations under international law, including international human rights and refugee and humanitarian law, while countering terrorism, and encourages the Office to further incorporate a human rights perspective into its work;

22. *Encourages* relevant United Nations bodies and entities and international, regional and subregional organizations, in particular those participating in the Counter-Terrorism Implementation Task Force, to step up their efforts to ensure respect for international human rights and refugee and humanitarian law, as well as the rule of law, as an element of technical assistance, including in the adoption and implementation of legislative and other measures by States;

23. *Calls upon* international, regional and subregional organizations to strengthen information-sharing, coordination and cooperation in promoting the protection of human rights, fundamental freedoms and the rule of law while countering terrorism;

24. *Requests* the Secretary-General to submit a report on the implementation of the present resolution to the Human Rights Council and to the General Assembly at its seventy-fourth session.

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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Argentina, Australia, Austria, Belgium, Brazil, Czechia, Dominican Republic, Finland, Iceland, Ireland, Japan, Liechtenstein, Mexico, Poland, Spain, Sweden and United Kingdom of Great Britain and Northern Ireland: draft resolution

Protection of human rights and fundamental freedoms while countering terrorism

The General Assembly,

Reaffirming the purposes and principles of the Charter of the United Nations,

Reaffirming also the Universal Declaration of Human Rights,[1]

Reaffirming further the Vienna Declaration and Programme of Action,[2]

Reaffirming the fundamental importance, including in response to terrorism and the fear of terrorism, of respecting all human rights and fundamental freedoms and the rule of law,

Reaffirming also that States are under the obligation to respect, protect and fulfil all human rights and fundamental freedoms of all persons,

Reaffirming further that terrorism cannot and should not be associated with any religion, nationality, civilization or ethnic group,

Reiterating the important contribution of measures taken at all levels against terrorism, consistent with international law, in particular international human rights, refugee and humanitarian law, to the functioning of democratic institutions and the maintenance of peace and security and thereby to the full enjoyment of human rights and fundamental freedoms, as well as the need to continue this fight, including by strengthening international cooperation and the role of the United Nations in this respect,

[1] Resolution 217 A (III).

[2] A/CONF.157/24 (Part I), chap. III.

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Reaffirming its unequivocal condemnation of all acts, methods and practices of terrorism in all its forms and manifestations, wherever and by whomsoever committed, regardless of their motivation, as criminal and unjustifiable, and renewing its commitment to strengthening international cooperation to prevent and combat terrorism, and to deny impunity and pursue accountability in relation to the perpetrators of terrorist acts,

Deeply deploring the occurrence of violations of human rights and fundamental freedoms in the context of the fight against terrorism, as well as violations of international refugee law and international humanitarian law,

Expressing its concern at the increasing use, in a globalized society, by terrorists and their supporters, of information and communications technologies, in particular the Internet and other media, and the use of such technologies to commit, incite, recruit for, fund or plan terrorist acts, noting the importance of cooperation among stakeholders in the implementation of the United Nations Global Counter-Terrorism Strategy,[3] and the comprehensive international framework to counter terrorist narratives,[4] including among Member States, international, regional and subregional organizations, the private sector and civil society, to address this issue, while respecting human rights and fundamental freedoms and complying with international law and the purposes and principles of the Charter, and reiterating that such technologies can be powerful tools in countering the spread of terrorism, including by promoting tolerance, dialogue among peoples and peace,

Stressing that all measures used in the fight against terrorism, including the profiling of individuals and the use of diplomatic assurances, memorandums of understanding and other transfer agreements or arrangements, must be in compliance with the obligations of States under international law, including international human rights law, international refugee law and international humanitarian law,

Stressing also that a criminal justice system based on respect for human rights and the rule of law, including due process and fair trial guarantees, is one of the best means for effectively countering terrorism and ensuring accountability,

Recognizing that respect for all human rights, respect for democracy and respect for the rule of law are interrelated and mutually reinforcing,

Recalling its resolution 70/148 of 17 December 2015, Human Rights Council resolutions 33/21 of 30 September 2016[5] and 35/34 of 23 June 2017,[6] as well as other relevant resolutions and decisions, and welcoming the efforts of all relevant stakeholders to implement those resolutions,

Recalling also its resolution 60/288 of 8 September 2006, by which it adopted the United Nations Global Counter-Terrorism Strategy, and its resolution 70/291 of 1 July 2016 on the review of the United Nations Global Counter-Terrorism Strategy, in which it called upon Member States and the United Nations entities involved in supporting counter-terrorism efforts to continue to facilitate the promotion and protection of human rights and fundamental freedoms, as well as due process and the rule of law, while countering terrorism, reaffirming that the promotion and protection of human rights for all and the rule of law are essential to preventing and combating terrorism, recognizing that effective counter-terrorism measures and the protection of human rights are not conflicting goals but are complementary and

[3] Resolution 60/288.

[4] S/2017/375, annex.

[5] See *Official Records of the General Assembly, Seventy-first Session, Supplement No. 53A* and corrigendum (A/71/53/Add.1 and A/71/53/Add.1/Corr.1), chap. II.

[6] Ibid., *Seventy-second Session, Supplement No. 53* (A/72/53), chap. V, sect. A.

mutually reinforcing, and stressing the need to promote and protect the rights of victims of terrorism,

Recalling further Human Rights Council resolution 31/3 of 23 March 2016,[7] by which the Council decided to extend the mandate of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism,

1. *Reaffirms* that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights law, international refugee law and international humanitarian law;

2. *Deeply deplores* the suffering caused by terrorism to the victims and their families, expresses its profound solidarity with them, and stresses the importance of providing them with assistance and other appropriate measures to protect, respect and promote their human rights;

3. *Expresses serious concern* at the occurrence of violations of human rights and fundamental freedoms, as well as violations of international refugee law and international humanitarian law, committed in the context of countering terrorism;

4. *Reaffirms* the obligation of States, in accordance with article 4 of the International Covenant on Civil and Political Rights,[8] to respect certain rights as non-derogable under any circumstances, recalls, in regard to all other Covenant rights, that any measures derogating from the provisions of the Covenant must be in accordance with that article in all cases, underlines the exceptional and temporary nature of any such derogations,[9] and in this regard calls upon States to raise awareness about the importance of these obligations among national authorities involved in combating terrorism;

5. *Urges* States, while countering terrorism:

(a) To fully comply with their obligations under international law, in particular international human rights law, international refugee law and international humanitarian law, with regard to the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment;

(b) To respect, protect and fulfil the human rights of all, including persons belonging to national or ethnic, religious and linguistic minorities, and to ensure that measures taken to counter terrorism are not discriminatory on any ground;

(c) To take all steps necessary to ensure that persons deprived of liberty, regardless of the place of arrest or detention, benefit from the guarantees to which they are entitled under international human rights law and international humanitarian law, including the review of the detention and other fundamental judicial guarantees;

(d) To ensure that no form of deprivation of liberty places a detained person outside the protection of the law and to respect the safeguards concerning the liberty, security and dignity of the person, in accordance with international law, including international human rights law and international humanitarian law;

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[7] Ibid., *Seventy-first Session, Supplement No. 53* (A/71/53), chap. IV, sect. A.

[8] See resolution 2200 A (XXI), annex.

[9] See, for example, general comment No. 29 on states of emergency adopted by the Human Rights Committee on 24 July 2001 (*Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 40* (A/56/40), vol. I, annex VI).

(e) To take all steps necessary to ensure the right of anyone arrested or detained on a criminal charge to be brought promptly before a judge or other officer authorized by law to exercise judicial power and the entitlement to trial within a reasonable time or release;

(f) To respect the right of persons to equality before the law, courts and tribunals and to a fair trial as provided for in international law, including international human rights law, such as the International Covenant on Civil and Political Rights, and international humanitarian law and international refugee law;

(g) To safeguard the work of civil society by ensuring that counter-terrorism laws and measures are consistent with and are applied in a manner that fully respects human rights, particularly the rights to freedom of expression, peaceful assembly and association;

(h) To acknowledge that the active participation of civil society can reinforce ongoing governmental efforts to protect human rights and fundamental freedoms while countering terrorism and to ensure that measures to counter terrorism and to preserve national security do not hinder its work and safety and are in compliance with their obligations under international law;

(i) To safeguard the right to privacy in accordance with international law, in particular international human rights law, and to take measures to ensure that interferences with or restrictions on that right are not arbitrary, are adequately regulated by law and are subject to effective oversight and appropriate redress, including through judicial review or other means;

(j) To review their procedures, practices and legislation regarding the surveillance and interception of communications and the collection of personal data, including mass surveillance, interception and collection, with a view to upholding the right to privacy by ensuring the full and effective implementation of all their obligations under international human rights law, and to take measures to ensure that interference with the right to privacy is regulated by law, which must be publicly accessible, clear, precise, comprehensive and non-discriminatory, and that such interference is not arbitrary or unlawful, bearing in mind what is reasonable for the pursuance of legitimate aims;

(k) To protect all human rights, including economic, social and cultural rights, bearing in mind that certain counter-terrorism measures may have an impact on the enjoyment of these rights;

(l) To ensure that guidelines and practices in all border control operations and other pre-entry mechanisms are clear and fully respect their obligations under international law, particularly international refugee and human rights law, towards persons seeking international protection;

(m) To fully respect non-refoulement obligations under international refugee and human rights law and, at the same time, to review, with full respect for these obligations and other legal safeguards, the validity of a refugee status decision in an individual case if credible and relevant evidence comes to light that indicates that the person in question has committed any criminal acts, including terrorist acts, falling under the exclusion clauses under international refugee law;

(n) To refrain from returning persons, including in cases related to terrorism, to their countries of origin or to a third State whenever such transfer would be contrary to their obligations under international law, in particular international human rights, humanitarian and refugee law, including in cases where there are substantial grounds for believing that they would be in danger of subjection to torture, or where their lives or freedom would be threatened, in violation of

international refugee law, on account of their race, religion, sex, nationality, membership in a particular social group or political opinion, bearing in mind the obligations that States may have to prosecute individuals not returned, and in that case, to adhere to the principle of extradite or prosecute;

(o) To ensure that their laws criminalizing acts of terrorism are accessible, formulated with precision, non-discriminatory, non-retroactive and in accordance with international law, including international human rights law;

(p) Not to resort to profiling based on stereotypes founded on grounds of discrimination prohibited by international law, including on racial, ethnic and/or religious grounds;

(q) To ensure that the interrogation methods used against terrorism suspects are consistent with their international obligations and are reviewed on a regular basis;

(r) To ensure that any person who alleges that his or her human rights or fundamental freedoms have been violated has access to a fair procedure for seeking full, effective and enforceable remedy within a reasonable time and that where such violations have been established, victims receive an adequate, effective and prompt remedy, which should include, as appropriate, restitution, compensation, rehabilitation and guarantees of non-recurrence;

(s) To ensure due process guarantees, consistent with all relevant provisions of the Universal Declaration of Human Rights,[9] and their obligations under the International Covenant on Civil and Political Rights, the Geneva Conventions of 1949[10] and the Additional Protocols thereto of 1977,[11] and the 1951 Convention relating to the Status of Refugees[12] and the 1967 Protocol thereto[13] in their respective fields of applicability;

(t) To ensure that gender equality and non-discrimination are taken into account when shaping, reviewing and implementing all counter-terrorism measures, and to promote the full and effective participation of women in those processes;

(u) To ensure that any measures taken or means employed to counter terrorism, including the use of remotely piloted aircraft, comply with their obligations under international law, including the Charter of the United Nations, human rights law and international humanitarian law, as applicable, in particular the principles of distinction and proportionality;

(v) To take into account relevant United Nations resolutions and decisions on human rights, and encourages them to give due consideration to the recommendations of the special procedures and mechanisms of the Human Rights Council and to the relevant comments and views of United Nations human rights treaty bodies;

(w) To undertake prompt, independent and impartial fact-finding inquiries whenever there are plausible indications of possible breaches of their obligations under international human rights law, with a view to ensuring accountability;

6. *Calls upon* States to protect the human rights of victims of terrorism, including with regard to their access to justice;

7. *Urges* States, while undertaking counter-terrorism activities, to respect their international obligations regarding humanitarian actors and to recognize the

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[10] United Nations, *Treaty Series*, vol. 75, Nos. 970–973.
[11] Ibid., vol. 1125, Nos. 17512 and 17513.
[12] Ibid., vol. 189, No. 2545.
[13] Ibid., vol. 606, No. 8791.

key role played by humanitarian organizations in areas where terrorist groups are active;

8. *Condemns* the recruitment and use of children in acts of terror and the recruitment and use of children, in violation of applicable international law, in measures taken to counter terrorism, and calls upon States to protect children pursuant to international human rights law and international humanitarian law;

9. *Recognizes* the importance of the International Convention for the Protection of All Persons from Enforced Disappearance,[14] the implementation of which will make a significant contribution in support of the rule of law in countering terrorism, including by prohibiting places of secret detention, and encourages all States that have not yet done so to consider signing, ratifying or acceding to the Convention;

10. *Urges* all States that have not yet done so to sign, ratify, accede to or implement the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[15] and encourages States to consider ratifying as a matter of priority the Optional Protocol thereto,[16] the implementation of which will make a significant contribution in support of the rule of law in countering terrorism;

11. *Recognizes* the important role of education, employment, inclusion and respect for cultural diversity in helping to prevent terrorism and violent extremism conducive to terrorism and in preventing and combating discrimination, and welcomes the engagement of relevant United Nations agencies with Member States to implement strategies to prevent violent extremism conducive to terrorism through education;

12. *Calls upon* the United Nations entities involved in supporting counter-terrorism efforts to respect and continue to facilitate the promotion and protection of human rights and fundamental freedoms, as well as due process and the rule of law, while countering terrorism;

13. *Encourages* the Office of Counter-Terrorism to enhance coordination and coherence, including through working effectively with the Counter-Terrorism Committee Executive Directorate, in supporting the efforts of Member States to implement the United Nations Global Counter-Terrorism Strategy,[3] so as to ensure that their counter-terrorism measures are rooted in respect for their obligations under international human rights law, international refugee law and international humanitarian law;

14. *Recognizes* the need to continue to ensure that fair and clear procedures under the United Nations terrorism-related sanctions regime are strengthened in order to enhance their efficiency and transparency, and welcomes and encourages the ongoing efforts of the Security Council in support of these objectives, including by supporting the enhanced role of the Office of the Ombudsperson and continuing to review all the names of individuals and entities in the regime, while emphasizing the importance of these sanctions in countering terrorism;

15. *Urges* States, while ensuring full compliance with their international obligations, to ensure the rule of law and to include adequate human rights guarantees in their national procedures for the listing and delisting of individuals and entities with a view to combating terrorism;

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[14] Ibid., vol. 2716, No. 48088.
[15] Ibid., vol. 1465, No. 24841.
[16] Ibid., vol. 2375, No. 24841.

16. *Requests* the Special Rapporteur of the Human Rights Council on the promotion and protection of human rights and fundamental freedoms while countering terrorism to continue to make recommendations, in the context of her mandate, with regard to preventing, combating and redressing violations of human rights and fundamental freedoms in the context of countering terrorism, and to continue to report and engage in interactive dialogues on an annual basis with the General Assembly and the Human Rights Council in accordance with their programmes of work;

17. *Requests* all Governments to cooperate fully with the Special Rapporteur in the performance of her mandated tasks and duties;

18. *Welcomes* the work of the United Nations High Commissioner for Human Rights to implement the mandate given to him by the General Assembly in its resolution 60/158 of 16 December 2005, and requests him to continue his efforts in this regard;

19. *Takes note with appreciation* of the report of the Secretary-General on protecting human rights and fundamental freedoms while countering terrorism;[17]

20. *Takes note* of the report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, which addresses, inter alia, human rights in the context of preventing and countering violent extremism;[18]

21. *Requests* the Office of the United Nations High Commissioner for Human Rights and the Special Rapporteur to continue to contribute to the work of the Office of Counter-Terrorism through, inter alia, participation in the Counter-Terrorism Implementation Task Force;

22. *Encourages* the Security Council, the Counter-Terrorism Committee and the Counter-Terrorism Committee Executive Directorate to strengthen, within their mandates, the links, cooperation and dialogue with relevant human rights bodies, giving due regard to the promotion and protection of human rights and the rule of law in their ongoing work relating to counter-terrorism;

23. *Calls upon* States and other relevant actors, as appropriate, to continue to implement the United Nations Global Counter-Terrorism Strategy, which, inter alia, reaffirms respect for human rights for all and the rule of law as the fundamental basis of the fight against terrorism;

24. *Requests* the Office of Counter-Terrorism to continue its efforts to ensure that the United Nations can better coordinate and enhance its support to Member States in their efforts to comply with their obligations under international law, including international human rights, refugee and humanitarian law, while countering terrorism, and encourages the Office to further incorporate a human rights perspective into its work;

25. *Encourages* relevant United Nations bodies and entities and international, regional and subregional organizations, in particular those participating in the Counter-Terrorism Implementation Task Force, which provide technical assistance upon request, to step up their efforts to ensure respect for international human rights law, international refugee law and international humanitarian law, as well as the rule of law, as an element of technical assistance, including in the adoption and implementation of legislative and other measures by States;

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[17] A/72/316.

[18] A/HRC/34/61.

26. *Calls upon* international, regional and subregional organizations to strengthen information-sharing, coordination and cooperation in promoting the protection of human rights, fundamental freedoms and the rule of law while countering terrorism;

27. *Requests* the Secretary-General to submit a report on the implementation of the present resolution to the Human Rights Council and to the General Assembly at its seventy-fourth session.

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Third Committee
Agenda item 72 (b)
Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Afghanistan, Albania, Argentina, Armenia, Australia, Austria, Belgium, Bulgaria, Canada, Chile, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czechia, Denmark, Ecuador, Estonia, Fiji, Finland, France, Georgia, Germany, Greece, Honduras, Hungary, Iceland, Ireland, Italy, Jordan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Montenegro, Morocco, Netherlands, Nigeria, Norway, Panama, Paraguay, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Rwanda, Slovakia, Slovenia, Spain, Sweden, Tunisia, Ukraine, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

National institutions for the promotion and protection of human rights

The General Assembly,

Recalling its previous resolutions on national institutions for the promotion and protection of human rights, the most recent of which was resolution 70/163 of 17 December 2015, and those of the Commission on Human Rights and the Human Rights Council concerning national institutions and their role in the promotion and protection of human rights, the most recent of which was Council resolution 33/15 of 29 September 2016,[1]

Welcoming the rapidly growing interest throughout the world in the creation and strengthening of independent, pluralistic national institutions for the promotion and protection of human rights,

Recalling the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles),[2] welcoming the forthcoming twenty-fifth anniversary of the Principles, and noting with appreciation the establishment of the Global Alliance of National Human Rights Institutions,

[1] See *Official Records of the General Assembly, Seventy-first Session, Supplement No. 53A* and corrigendum (A/71/53/Add.1 and A/71/53/Add.1/Corr.1), chap. II.

[2] Resolution 48/134, annex.

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Recalling also the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993,[3] which reaffirmed the important and constructive role played by national human rights institutions, in particular in their advisory capacity to the competent authorities and their role in preventing and remedying human rights violations, in disseminating information on human rights and in education in human rights,

Reaffirming the important role that such national institutions play and will continue to play in promoting and protecting human rights and fundamental freedoms, strengthening participation, in particular of civil society organizations, and promoting the rule of law and developing and enhancing public awareness of those rights and freedoms,

Recalling its previous resolutions on the role of the Ombudsman, mediator institutions and other national human rights institutions in the promotion and protection of human rights, the most recent of which was resolution 71/200 of 19 December 2016,

Recognizing the important role of the United Nations, in particular the Office of the United Nations High Commissioner for Human Rights, in assisting the development of independent and effective national human rights institutions, guided by the Paris Principles, and recognizing also in this regard the potential for strengthened and complementary cooperation among the United Nations, the Global Alliance of National Human Rights Institutions and its regional coordinating networks and those national institutions in the promotion and protection of human rights,

Welcoming in this context the tripartite partnership between the United Nations Development Programme, the Office of the High Commissioner and the Global Alliance of National Human Rights Institutions, and recognizing their contribution to the development of independent and effective national human rights institutions, in accordance with the Paris Principles,

Reaffirming that all human rights are universal, indivisible, interrelated, interdependent and mutually reinforcing and that all human rights must be treated in a fair and equal manner, on the same footing and with the same emphasis,

Bearing in mind the significance of national and regional particularities and various historical, cultural and religious backgrounds, and that all States, regardless of their political, economic and cultural systems, have the duty to promote and protect all human rights and fundamental freedoms,

Recalling the programme of action adopted by national institutions for the promotion and protection of human rights at their meeting held in Vienna in June 1993 during the World Conference on Human Rights, in which it was recommended that United Nations activities and programmes should be reinforced to meet the requests for assistance from States wishing to establish or strengthen their national institutions for the promotion and protection of human rights,

Taking note with appreciation of the reports of the Secretary-General on national institutions for the promotion and protection of human rights[4] and on the activities of the Global Alliance of National Human Rights Institutions in accrediting national institutions in compliance with the principles relating to the status of institutions for the promotion and protection of human rights (Paris Principles),[5]

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[3] A/CONF.157/24 (Part I), chap. III.

[4] A/HRC/33/33.

[5] A/HRC/33/34.

Welcoming the strengthening in all regions of regional cooperation among national human rights institutions, and welcoming also the continuing work of the Network of African National Human Rights Institutions, the Network of National Institutions for the Promotion and Protection of Human Rights in the Americas, the Asia-Pacific Forum of National Human Rights Institutions and the European Network of National Human Rights Institutions,

Welcoming also the contribution of the Global Alliance of National Human Rights Institutions to the strengthening of cooperation among existing national human rights institutions in all regions and the enhancement of the engagement of national human rights institutions compliant with the Paris Principles with relevant United Nations mechanisms and processes,

Welcoming further the progress made to date by Member States and all other stakeholders, including the Global Alliance of National Human Rights Institutions and its regional coordinating networks and relevant United Nations mechanisms and processes in the implementation of resolution 70/163,

Welcoming the adoption of decision 7/1 of the Open-ended Working Group on Ageing, entitled "Modalities of participation of national human rights institutions in the work of the Open-ended Working Group on Ageing", by which the Working Group decided to invite national human rights institutions fully compliant with the Paris Principles to participate in its work in their own capacity,[2]

Noting with appreciation the opportunities afforded to national human rights institutions to contribute to the Conference of States Parties to the Convention on the Rights of Persons with Disabilities and to the Commission on the Status of Women, and noting in this regard the efforts to further enhance the participation of national human rights institutions compliant with the Paris Principles at the sessions of the Commission, in compliance with the rules of procedure of the Economic and Social Council,

Welcoming in this regard the decision of the Commission on the Status of Women to encourage the secretariat to continue its consideration of how to enhance the participation, including at the sixty-second session of the Commission, of national human rights institutions that are fully compliant with the Paris Principles, where they exist, in compliance with the rules of procedure of the Economic and Social Council,

Welcoming also the decision to invite national human rights institutions compliant with the Paris Principles to participate in the intergovernmental conference to adopt a global compact for safe, orderly and regular migration and its preparatory process and to invite the institutions, as well as the Global Alliance of National Human Rights Institutions and its regional coordinating networks, to organize global and regional consultations and to contribute views to the preparatory process,

Welcoming further the continued contribution of national human rights institutions to the work of the United Nations human rights treaty bodies as well as the efforts of the human rights treaty bodies, within their respective mandates and in accordance with the treaties establishing these mechanisms, to promote the effective and enhanced participation by national human rights institutions compliant with the Paris Principles at all relevant stages of their work, and noting with appreciation the ongoing efforts of the United Nations human rights treaty bodies, including by the continued consideration of a common treaty body approach to the engagement of

[2] See A/AC.278/2016/2, para. 10.

the United Nations human rights treaty bodies with national human rights institutions at all relevant stages of their work,

1. *Takes note with appreciation* of the report of the Secretary-General;[1]

2. *Reaffirms* the importance of the development of effective, independent and pluralistic national institutions for the promotion and protection of human rights, in accordance with the Paris Principles;[2]

3. *Recognizes* the role of independent national institutions for the promotion and protection of human rights in working together with Governments to ensure full respect for human rights at the national level, including by contributing to follow-up actions, as appropriate, to the recommendations resulting from the international human rights mechanisms;

4. *Welcomes* the increasingly important role of national institutions for the promotion and protection of human rights in supporting cooperation between their Governments and the United Nations in the promotion and protection of human rights;

5. *Underlines* the value of national human rights institutions, established and operating in accordance with the Paris Principles, in the continued monitoring of existing legislation and in consistently informing the State about the impact of such legislation on the activities of human rights defenders, including by making relevant and concrete recommendations;

6. *Recognizes* the role that national human rights institutions can play in preventing and addressing cases of reprisals as part of supporting the cooperation between their Governments and the United Nations in the promotion of human rights, including by contributing to follow-up actions, as appropriate, to recommendations made by international human rights mechanisms;

7. *Also recognizes* that, in accordance with the Vienna Declaration and Programme of Action,[3] it is the right of each State to choose the framework for national institutions that is best suited to its particular needs at the national level in order to promote human rights in accordance with international human rights standards;

8. *Encourages* Member States to establish effective, independent and pluralistic national institutions or, where they already exist, to strengthen them for the promotion and protection of all human rights and fundamental freedoms for all, as outlined in the Vienna Declaration and Programme of Action;

9. *Welcomes* the growing number of States establishing or considering the establishment of national institutions for the promotion and protection of human rights, and welcomes in particular the growing number of States that have accepted recommendations to establish national institutions compliant with the Paris Principles made through the universal periodic review and, where relevant, by treaty bodies and special procedures;

10. *Encourages* national institutions for the promotion and protection of human rights established by Member States to continue to play an active role in preventing and combating all violations of human rights as enumerated in the Vienna Declaration and Programme of Action and relevant international human rights instruments;

11. *Stresses* that national human rights institutions and their respective members and staff should not face any form of reprisal or intimidation, including

[1] A/72/277

political pressure, physical intimidation, harassment or unjustifiable budgetary limitations, as a result of activities undertaken in accordance with their respective mandates, including when taking up individual cases or when reporting on serious or systematic violations in their countries, and calls upon States to promptly and thoroughly investigate cases of alleged reprisal or intimidation against members or staff of national human rights institutions or against individuals who cooperate or seek to cooperate with them;

12. *Recognizes* the role played by national institutions for the promotion and protection of human rights in the Human Rights Council, including its universal periodic review mechanism, in both preparation and follow-up, and the special procedures, as well as in the human rights treaty bodies, in accordance with Council resolutions 5/1 and 5/2 of 18 June 2007[8] and Commission on Human Rights resolution 2005/74 of 20 April 2005;[9]

13. *Welcomes* the strengthening of opportunities for national human rights institutions compliant with the Paris Principles to contribute to the work of the Human Rights Council, as stipulated in the Council review outcome document annexed to Council resolution 16/21 of 25 March 2011[10] adopted by the General Assembly in its resolution 65/281 of 17 June 2011, and encourages and welcomes the increasing use made by national human rights institutions of these participatory opportunities;

14. *Also welcomes* the contribution of national human rights institutions compliant with the Paris Principles to the work of the United Nations, including of the Commission on the Status of Women, the Conference of States Parties to the Convention on the Rights of Persons with Disabilities, the Open-ended Working Group on Ageing and the intergovernmental process of the General Assembly on strengthening and enhancing the effective functioning of the human rights treaty body system;

15. *Encourages* national human rights institutions compliant with the Paris Principles to continue to participate in and to contribute to deliberations in all relevant United Nations mechanisms and processes in accordance with their respective mandates, including the discussions on the implementation of the 2030 Agenda for Sustainable Development;[11]

16. *Encourages* all relevant United Nations mechanisms and processes, in accordance with their respective mandates, including the Commission on the Status of Women, the Conference of States Parties to the Convention on the Rights of Persons with Disabilities, the Open-ended Working Group on Ageing and the 2030 Agenda for Sustainable Development, including the high-level political forum on sustainable development, to further enhance the participation of national human rights institutions compliant with the Paris Principles and to allow for their contribution to these United Nations mechanisms and processes, bearing in mind the relevant provisions dealing with their participation contained in General Assembly resolution 60/251 of 15 March 2006, Human Rights Council resolutions 5/1, 5/2 and 16/21 and Commission on Human Rights resolution 2005/74;

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[8] See *Official Records of the General Assembly, Sixty-second Session, Supplement No. 53* (A/62/53), chap. IV, sect. A.

[9] See *Official Records of the Economic and Social Council, 2005, Supplement No. 3* and corrigenda (E/2005/23, E/2005/23/Corr.1 and E/2005/23/Corr.2), chap. II, sect. A.

[10] See *Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 53* (A/66/53), chap. II, sect. A.

[11] Resolution 70/1.

17. *Encourages* all other relevant United Nations forums and meetings, in accordance with their respective mandates, existing rules of procedure and modalities, to provide for the engagement of national human rights institutions compliant with the Paris Principles and to allow for their contribution to these forums and meetings;

18. *Invites* the human rights treaty bodies, within their respective mandates and in accordance with the treaties establishing these mechanisms, to provide for ways to ensure the effective and enhanced participation by national human rights institutions compliant with the Paris Principles at all relevant stages of their work;

19. *Requests* the Secretary-General to continue to provide support to national human rights institutions compliant with the Paris Principles as they engage with relevant United Nations mechanisms and processes, with full respect for their respective mandates, and with a view to enabling their most effective contributions, in order to further the implementation of international human rights obligations and commitments;

20. *Encourages* all United Nations human rights mechanisms and relevant United Nations agencies, funds and programmes to work, within their respective mandates, with Member States and national institutions in the promotion and protection of human rights with respect to, inter alia, projects in the area of good governance and the rule of law, welcomes in this regard the efforts made by the United Nations High Commissioner for Human Rights to develop partnerships in support of national institutions, including the tripartite partnership between the United Nations Development Programme, the Office of the United Nations High Commissioner for Human Rights and the Global Alliance of National Human Rights Institutions, and in this respect encourages all United Nations human rights mechanisms and relevant United Nations agencies, funds and programmes to enhance their interaction with national human rights institutions, including by facilitating their access to relevant information and documentation;

21. *Stresses* the importance of the financial and administrative independence and stability of national human rights institutions for the promotion and protection of human rights, and notes with satisfaction the efforts of those States that have provided their national institutions with more autonomy and independence, including by giving them an investigative role or enhancing such a role, and encourages other Governments to consider taking similar steps;

22. *Urges* the Secretary-General to continue to give high priority to requests from Member States for assistance in the establishment and strengthening of national human rights institutions;

23. *Underlines* the importance of the autonomy and independence of ombudsman institutions, encourages increased cooperation between national human rights institutions and regional and international associations of ombudsmen, and encourages ombudsman institutions to actively draw on the standards enumerated in international instruments and the Paris Principles to strengthen their independence and increase their capacity to act as national human rights protection mechanisms;

24. *Commends* the high priority given by the Office of the High Commissioner to work on national human rights institutions, encourages the High Commissioner, in view of the expanded activities relating to national institutions, to ensure that appropriate arrangements are made and budgetary resources provided to continue and further extend activities in support of national institutions, and invites Governments to contribute additional voluntary funds to that end;

25. *Welcomes* the important role played by the Global Alliance of National Human Rights Institutions, in close cooperation with the Office of the High Commissioner, in assisting Governments, when requested, in the establishment and

strengthening of national human rights institutions in accordance with the Paris Principles, in assessing the conformity of national human rights institutions with the Paris Principles and in providing technical assistance to strengthen national human rights institutions, upon request, with a view to enhancing their compliance with the Paris Principles, and calls upon Member States and other stakeholders, including United Nations agencies, to follow up on the recommendations of the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions, with a view to enabling national human rights institutions to fully comply with the Paris Principles in both law and practice;

26. *Encourages* national institutions, including ombudsman and mediator institutions, to seek accreditation status through the Global Alliance of National Human Rights Institutions;

27. *Encourages* all Member States to take appropriate steps to promote the exchange of information and experience concerning the establishment and effective operation of national human rights institutions and to support the work of the Global Alliance of National Human Rights Institutions and its regional coordinating networks in this regard, including through support for the relevant technical assistance programmes of the Office of the High Commissioner;

28. *Calls upon* the Secretary-General to continue to encourage national human rights institutions to interact with and advocate independent participation in all relevant United Nations mechanisms and processes, in accordance with their respective mandates, existing rules of procedure and modalities;

29. *Requests* the Secretary-General to continue to provide the assistance necessary for holding international and regional meetings of national institutions, including meetings of the Global Alliance of National Human Rights Institutions, in cooperation with the Office of the High Commissioner;

30. *Also requests* the Secretary-General to report to the General Assembly at its seventy-fourth session on the implementation of the present resolution.